



LODI CITY COUNCIL
Carnegie Forum
305 West Pine Street, Lodi

AGENDA - Lodi Public Improvement Corp.

Date: October 22, 2002

Time: 7:00 a.m.

For information regarding this Agenda please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

MEETING OF THE
Public Improvement Corporation (PIC)
of the City of Lodi

- A. Call to order – President
- B. Roll call to be recorded by Secretary
- Res. C. Adopt resolution authorizing the approval of certain documents related to the financing of the amended power sales agreement between Calpine Corporation and the City of Lodi (EUD)
- D. Other business
- E. Adjournment

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

Jennifer M. Perin
for Susan J. Blackston
Secretary
Lodi Public Improvement Corporation

TRUST AGREEMENT

by and between

LODI PUBLIC IMPROVEMENT CORPORATION

and

BNY WESTERN TRUST COMPANY,

as Trustee

Dated as of November 1, 2002

Relating to

Electric System Revenue
Certificates of Participation

2002 Series C

and

2002 Taxable Series D

TRUST AGREEMENT

THIS TRUST AGREEMENT, dated as of November 1, 2002 (the "Trust Agreement"), by and between the LODI PUBLIC IMPROVEMENT CORPORATION, a nonprofit, public benefit corporation duly organized and existing under and by virtue of the laws of the State of California (the "Corporation"), and BNY Western Trust Company, a banking corporation duly organized and existing under and by virtue of the laws of the State of California (the "Trustee");

WITNESSETH:

WHEREAS, the Corporation is a nonprofit, public benefit corporation duly organized and existing under and pursuant to the laws of the State of California; and

WHEREAS, the Corporation is authorized and empowered to assist the City of Lodi (the "City"), a municipal corporation duly organized and existing under the laws of the State of California, in connection with the City's Electric System (capitalized terms used herein and not otherwise defined shall have the meanings assigned such terms pursuant to Section 1.01 hereof); and

WHEREAS, pursuant to the Public Utilities Code of the State, the City is authorized to acquire, own, control, sell or exchange rights of every nature for the purpose of operating the Electric System; and

WHEREAS, pursuant to the Original Agreement, the City was obligated to take and pay for the Energy as delivered, resulting in the City's obligation to make installment purchase payments to Calpine in the amounts and at the times determined pursuant to the Original Agreement; and

WHEREAS, the City has sold the Energy to Calpine pursuant to **Part III of the Amendment Amended Agreement** and the City and Calpine have agreed to net amounts due with **respect to their respective purchases of the Energy under the Amended Agreement**; and

WHEREAS, as a result of the netting of amounts due by the respective parties, the City is obligated **under Part III of the Amended Agreement** to make the installment payments set forth in the Amended Agreement at the times and in the amounts set forth in the Amended Agreement; and

WHEREAS, the Corporation has acquired all of Calpine's **rights, title and interest** in and to **Parts I and Part III** of the Amended Agreement; and

WHEREAS, the City and the Corporation have agreed to amend and restate the terms and conditions of **Parts I and Part III** of the Amended Agreement through the execution and delivery of the Agreement; and

WHEREAS, the City has determined that the consummation of the transactions contemplated by the Agreement is necessary and proper for City purposes and is for the common benefit of the City as a whole; and

WHEREAS, the City is obligated to make certain Installment Payments to and all of the Corporation's rights and privileges under the Agreement; and ~~WHEREAS, all (other than rights to receive the Installment Payments~~ indemnification) have been assigned and transferred by the Corporation to the Trustee pursuant to this Trust Agreement; and

WHEREAS, in consideration of such assignment and the execution and entering into of this Trust Agreement, the Trustee has agreed to execute and deliver the Certificates in an aggregate principal amount equal to the aggregate Principal Installments of ~~such~~ the Installment Payments, with each Certificate evidencing ~~and representing a proportionate~~ ownership interest in ~~such~~ the Installment Payments; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Trust Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the execution and delivery of this Trust Agreement have been in all respects duly authorized;

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants herein, and for other valuable consideration, the parties hereto do hereby covenant and agree, as follows:

ARTICLE I

DEFINITIONS; EQUAL SECURITY

Section 1.01 **Definitions.** Unless the context otherwise requires, the terms defined in the Agreement and, if not defined therein, in this section, shall, for all purposes hereof and of any Supplemental Trust Agreement and of any certificate, opinion, request or other document herein or therein mentioned, have the meanings herein specified:

“Adjusted Annual Debt Service” means, for any Fiscal Year or any designated twelve (12) month period in question, the Annual Debt Service for such Fiscal Year or twelve month period minus the sum of the amount of the Annual Debt Service with respect to Outstanding Parity Obligations to be paid during such Fiscal Year or twelve month period from the proceeds of Parity Obligations or interest earned thereon (other than interest deposited into the Electric Revenue Fund), all as set forth in a Certificate of the City.

“Adjusted Annual Net Revenues” mean, for any Fiscal Year or any designated twelve (12) month period in question, the Adjusted Annual Revenues during such Fiscal Year or twelve month period less the Adjusted Maintenance and Operation Costs during such Fiscal Year or twelve month period.

“Adjusted Annual Revenues” mean, for any Fiscal Year or any designated twelve (12) month period in question, the Revenues during such Fiscal Year or twelve month period plus, for the purposes of determining compliance with Section 7.13 of the Agreement only, the amount of Available Reserves on deposit, or which the City has authorized to be deposited, in the Electric Revenue Fund as of the first day of such Fiscal Year or twelve month period.

“Adjusted Maintenance and Operation Costs” mean, with respect to any period of time, the Maintenance and Operation Costs during such period less the amount of such Maintenance and Operation Costs paid from Receipts Pledged to Above-Market Costs.

“Agreement” means the Amended and Restated Electric Energy Purchase Agreement, dated as of November 1, 2002, between the City and the Corporation, as the same may be amended and supplemented.

“Agreement Event of Default” means one or more of the events specified as such in Section 8.01 of the Agreement.

“Amended Agreement” means the Original Agreement as amended and supplemented by the Amendment.

“Amendment” means Amendment Number One to Electric Energy Purchase Agreement, dated as of September 1, 2002~~2002~~, between the City and Calpine.

“Annual Debt Service” means, for any Fiscal Year or any designated twelve (12) month period in question, (i) with respect to the Installment Payments, the required payments scheduled to be made with respect to all Outstanding Installment Payments in such Fiscal Year or twelve (12) month period, provided that for the purpose of determining the Reserve Requirement, compliance with Section 7.13 of the Agreement and the conditions for the execution of Parity Obligations, clauses (C) and (D) below shall apply if any Payment Agreement is in effect with respect to any Outstanding Installment Payments; or (ii) with respect to Parity Obligations, the required payments scheduled to be made with respect to all Outstanding Parity Obligations in such Fiscal Year or twelve (12) month period provided, that for the purposes of determining compliance with Section 7.13 and conditions for the execution of Parity Obligations:

(A) Generally. Except as otherwise provided by subparagraph (B) with respect to Variable Interest Rate Parity Obligations, by subparagraph (C) with respect to Parity Obligations as to which a Payment Agreement is in force, and by subparagraph (D) with respect to certain Parity Payment Agreements, interest on any Parity Obligation shall be calculated based on the actual amount of interest that is payable under that Parity Obligation;

(B) Interest on Variable Interest Rate Parity Obligations. The amount of interest deemed to be payable on any Variable Interest Rate Parity Obligation shall be calculated on the assumption that the interest rate on that Parity Obligation would be equal to the Assumed RBI-based Rate;

(C) Interest on Installment Payments or Parity Obligations with respect to which a Payment Agreement is in force. The amount of interest deemed to be payable on any Installment Payment or Parity Obligation with respect to which a Payment Agreement is in force shall, so long as the Qualified Counterparty thereto is not in default thereunder, be based on the net economic effect on the City expected to be produced by the terms of such ~~{Installment Payment}~~ or Parity Obligation and such Payment Agreement, including but not limited to the effects that (i) any such Installment Payment or Parity Obligation which would, but for such Payment Agreement, be treated as an obligation bearing interest at a Variable Interest Rate instead shall be treated as an obligation bearing interest at a fixed interest rate, and (ii) any such

Installment Payment or Parity Obligation which would, but for such Payment Agreement, be treated as an obligation bearing interest at a fixed interest rate instead shall be treated as an obligation bearing interest at a Variable Interest Rate; and accordingly, the amount of interest deemed to be payable on any **Installment** Payment or Parity Obligation with respect to which a Payment Agreement is in force shall, so long as the Qualified Counterparty thereto is not in default thereunder, be an amount equal to the amount of interest that would be payable at the rate or rates stated in such **Installment** Payment or Parity Obligation plus the Payment Agreement Payments minus the Payment Agreement Receipts, and for the purpose of calculating Payment Agreement Receipts and Payment Agreement Payments under such Payment Agreement, the following assumptions shall be made:

(1) **Counterparty Obligated to Pay Actual Variable Interest Rate on Variable Interest Rate Parity Obligations.** If the Payment Agreement obligates a Qualified Counterparty to make payments to the City based on the actual Variable Interest Rate on **an Installment Payment or** a Parity Obligation that would, but for the Payment Agreement, be treated as a Variable Interest Rate Parity Obligation and obligates the City to make payments to the Qualified Counterparty based on a fixed rate, payments by the City to the Qualified Counterparty shall be assumed to be made at the fixed rate specified by the Payment Agreement and payments by the Qualified Counterparty to the City shall be assumed to be made at the actual Variable Interest Rate on such **Installment Payment or** Parity Obligation, without regard to the occurrence of any event that, under the provisions of the Payment Agreement, would permit the Qualified Counterparty to make payments on any basis other than the actual Variable Interest Rate on such **Installment Payment or** Parity Obligation, and such **Installment Payment or** Parity Obligation shall **be** set forth **in** a debt service schedule based on that assumption;

(2) **Variable Interest Rate Parity Obligations and Payment Agreements Having the Same Variable Interest Rate Component.** If both a Payment Agreement and the related **Installment Payment or** Parity Obligation that would, but for the Payment Agreement, be treated as a Variable Interest Rate Parity Obligation include a variable interest rate payment component that is required to be calculated on the same basis (including, without limitation, on the basis of the same variable interest rate index), it shall be assumed that the variable interest rate payment component payable pursuant to the Payment Agreement is equal in amount to the variable interest rate component payable on such **Installment Payment or** Parity Obligation;

(3) **Variable Interest Rate Parity Obligations and Payment Agreements Having Different Variable Interest Rate Components.** If a Payment Agreement obligates either the City or the Qualified Counterparty to make payments of a variable interest rate component on a basis that is different (including, without limitation, on a different variable interest rate index) from the basis that is required to be used to calculate interest on the **Installment Payment or** Parity Obligation that would, but for the Payment Agreement, be treated as a Variable Interest Rate Parity Obligation it shall be assumed:

(a) City Obligated to Make Payments Based on Variable Interest Rate Index. If payments by the City under the Payment Agreement are based on a variable interest rate index and payments by the Qualified Counterparty are based on a fixed interest rate, payments by the City to the Qualified Counterparty will be based upon an interest rate equal to the Assumed RBI-based Rate, and payments by the Qualified Counterparty to the City will be based on the fixed rate specified by the Payment Agreement; and

(b) City Obligated to Make Payments Based on Fixed Interest Rate. If payments by the City under the Payment Agreement are based on a fixed interest rate and payments by the Qualified Counterparty are based on a variable interest rate index, payments by the City to the Qualified Counterparty will be based on an interest rate equal to the rate that is one hundred percent (100%) of the fixed interest rate specified by the Payment Agreement to be paid by the City, and payments by the Qualified Counterparty to the City will be based on a rate equal to the Assumed RBI-based Rate as the variable interest rate deemed to apply to the Variable Interest Rate Parity Obligation.

(4) Certain Payment Agreements May be Disregarded. Notwithstanding the provisions of subparagraphs (C)(1), (2) and (3) of this definition, the City shall not be required to (but may at its option) take into account as set forth in subparagraph (C) of this definition (for the purpose of determining Annual Debt Service) the effects of any Payment Agreement that has a remaining term of ten (10) years or less;

(D) Debt Service on Parity Payment Agreements. No interest shall be taken into account with respect to a Parity Payment Agreement for any period during which Payment Agreement Payments on that Parity Payment Agreement are taken into account in determining Annual Debt Service on a related Installment Payment or a Parity Obligation under subparagraph (C) of this definition; provided, that for any period during which Payment Agreement Payments are not taken into account in calculating Annual Debt Service on any Installment Payment or Parity Obligation because the Parity Payment Agreement is not then related to any other Installment Payment or Parity Obligation, interest on that Parity Payment Agreement shall be taken into account by assuming:

(1) City Obligated to Make Payments Based on Fixed Interest Rate. If the City is obligated to make Payment Agreement Payments based on a fixed interest rate and the Qualified Counterparty is obligated to make payments based on a variable interest rate index, payments by the City will be based on the specified fixed rate, and payments by the Qualified Counterparty will be based on a rate equal to the average rate determined by the variable interest rate index specified by the Payment Agreement during the calendar quarter preceding the calendar quarter in which the calculation is made; and

(2) City Obligated to Make Payments Based on Variable Interest Rate Index. If the City is obligated to make Payment Agreement Payments based on a variable interest rate index and the Qualified Counterparty is obligated to make payments based on a fixed interest rate, payments by the City will be based on an interest rate equal to the average rate determined by the variable interest rate index specified by the Payment Agreement during the calendar quarter preceding the calendar quarter in which the calculation is made, and the Qualified Counterparty will make payments based on the fixed rate specified by the Parity Payment Agreement; and

(3) Certain Payment Agreements May be Disregarded. Notwithstanding the provisions of subparagraphs (D)(1) and (2) of this definition, the City shall not be required to (but may at its option) take into account (for the purpose of determining Annual Debt Service) the effects of any Payment Agreement that has a remaining term of ten (10) years or less;

(E) Balloon Parity Obligations. For purposes of calculating Annual Debt Service on any Balloon Parity Obligations, it shall be assumed that the principal of those Balloon Parity Obligations shall be amortized in amounts which produce, together with interest thereon at a rate equal to the Assumed RBI-based Rate, equal annual installments of principal and interest over a term of thirty (30) years from the date of issuance.

“Annual Revenues” mean, for any Fiscal Year or any designated twelve (12) month period, the Revenues during such Fiscal Year or twelve (12) month period.

“Approving Opinion” means an opinion of Bond Counsel that an action being taken (i) is authorized by the Agreement and this Trust Agreement, and (ii) will not adversely affect the Tax-exempt status of the interest on the Series C Certificates.

“Assumed RBI-based Rate” means, as of any date of calculation, an assumed interest rate equal to ninety percent (90%) of the average RBI during the twelve (12) calendar months immediately preceding the month in which such calculation is made.

“Authorized Denomination” means \$5,000 or any integral multiple thereof.

“Available Reserves” mean, as of any date of calculation, the amount of unrestricted funds in the Electric Revenue Fund designated as “Available Reserves” for purposes of the Agreement by the City and then available to pay Maintenance and Operation Costs and/or Annual Debt Service which may include transfers to the Electric Revenue Fund from the Rate Stabilization Fund or any other fund which are legally available for deposit in the Electric Revenue Fund.

“Balloon Parity Obligation” means any Parity Obligation described as such in such Parity Obligation.

“Beneficial Owners” means those individuals, partnerships, corporations or other entities for whom the Direct Participants have caused DTC to hold Book-Entry Certificates.

“Bond Counsel” means any attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations of states and political subdivisions, selected by the City and duly admitted to practice law before the highest court of any state of the United States of America.

“Book-Entry Certificates” means the Certificates registered in the name of the nominee of DTC, or any successor securities depository for the Certificates, as the registered owner thereof pursuant to the terms and provisions of Section ~~2.11~~2.13 hereof.

“Business Day” shall mean any day other than (i) a Saturday or Sunday, (ii) a day on which commercial banks in New York, New York, or the city in which the Principal Corporate Trust Office of the Trustee is located are authorized or required by law to close or (iii) a day on which the New York Stock Exchange is closed.

“Calpine” means Calpine Energy Services, L.P., a limited partnership organized and existing under the laws of the State of Delaware.

“Certificate Insurer” means MBIA Insurance Corporation, as issuer of the Certificate Insurance Policies.

“Certificate Insurance Policies” mean collectively, the Series C Insurance Policy and the Series D Insurance Policy.

“Certificate of the City” means an instrument in writing signed by the City Manager, the Finance Director, or any other officer of the City duly authorized by the City Council for that purpose.

“Certificate of the Corporation” means an instrument in writing signed by the President of the Corporation or by any other officer of the Corporation duly authorized by the Corporation for that purpose.

“Certificate Payment Date” means, with respect to each Series C Certificates, the applicable date set forth in Section 2.02(a) and with respect to each Series D Certificate, the applicable date set forth in Section 2.02(b).

“Certificate Register” means the books for the registration and transfer of the Certificates kept by the Trustee pursuant to Section 2.10 hereof.

“Certificates” means Series C Certificates and the Series D Certificates.

“City” means the City of Lodi, a municipal corporation, duly organized and existing under and by virtue of the Constitution and laws of the State.

“City Transfers” mean any payments from Revenues to the City for payments-in-lieu of taxes, transfers to the General Fund or similar payments but shall not include any item constituting a Maintenance and Operation Cost.

“Code” means the Internal Revenue Code of 1986, and the regulations issued thereunder, as the same may be amended from time to time, and any successor provisions of law. Reference to a particular section of the Code shall be deemed to be a reference to any successor to any such section.

“Corporate Trust Office” means, with respect to the Trustee, the principal corporate trust office of the Trustee at San Francisco, California or such other office designated by the Trustee from time to time.

“Corporation” means the Lodi Public Improvement Corporation, a non-profit, public benefit corporation duly organized and existing under and by virtue of the laws of the State.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the City or the Corporation and related to the authorization, execution and delivery of the Agreement, this Trust Agreement and the sale of the Certificates, including, but not limited to, costs of preparation and reproduction of documents, costs of rating agencies and costs to provide information required by rating agencies, filing and recording fees, initial fees and charges of the Trustee, legal fees and charges, fees and disbursements of consultants and professionals, fees and expenses of the underwriter, fees and charges for preparation, execution and safekeeping of the Certificates, fees of the Corporation and any other cost, charge or fee in connection with the original execution and delivery of the Certificates.

“Debt Service Fund” means the fund by that name established pursuant to Section 3.02 hereof.

“Defeasance Securities” mean the following:

- A. United States Treasury Certificates, Notes and Bonds (including State and Local Government Series).
- B. Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities.
- C. Resolution Funding Corp. (“REFCORP”) Only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable.
- D. Pre-refunded municipal bonds rate “Aaa” by Moody’s and “AAA” by S&P. If however, the issue is only rated by S&P (i.e., there is no Moody’s rating), then the pre-refunded bonds must have been pre-refunded with cash, direct United States or United States guaranteed obligations, or “AAA” rated pre-refunded municipals to satisfy this condition.
- E. Obligations issued by the following agencies which are backed by the full faith and credit of the United States:
 - 1. United States Export-Import Bank
Direct obligations or fully guaranteed certificates of beneficial ownership

2. Farmers Home Administration (“FmHA”)
Certificates of beneficial ownership
3. Federal Financing Bank
4. General Services Administration
Participation certificates
5. United States Maritime Administration
Guaranteed Title XI financing
6. United States Department of Housing and Urban Development
Project Notes
Local Authority Bonds
New Communities Debentures – United States government guaranteed debentures
United States Public Housing Notes and Bonds – United States government guaranteed public housing notes and bonds.

“Direct Participants” means those broker-dealers, banks and other financial institutions from time to time for which DTC holds the Certificates as securities depository.

“DTC” means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the New York Banking Law, or any successor securities depository for the Certificates.

“Electric Service” means the services, commodities and products furnished, made available or provided by the Electric System.

“Electric System” means the electric utility system of the City, comprising all electric generation, transmission and distribution facilities and all general plant facilities related thereto now owned by the City and all other properties, structures or works for the generation, transmission or distribution of electricity hereafter acquired by the City, including all contractual rights for electricity or the transmission thereof, together with all additions, betterments, extensions or improvements to such facilities, properties, structures or works or any part thereof, or any additional contract rights for electricity or the transmission thereof, hereafter acquired.

“Engineer’s Report” means a report signed by an Independent Engineer.

“Event of Default” means with respect to this Trust Agreement, an event described in Section 8.01 hereof and, ~~with respect to the Agreement, an event described in Section 8.01 thereof.~~

“Finance Director” means the Finance Director of the City.

“Financial Guaranty” means a policy of municipal bond insurance or surety bonds issued by a municipal bond insurer or a letter of credit issued by a bank or other institution if the obligations insured by such insurer or issued by such bank or other institution, as the case may

be, have ratings at the time of issuance of such policy or surety bond or letter of credit in the highest rating category (without regard to qualifiers) by S&P and Moody's and, if rated by A.M. Best & Company, also in the highest rating category (without regard to qualifiers) by A.M. Best & Company.

"Fiscal Year" means the period beginning on July 1 of each year and ending on the next succeeding June 30, or any other annual accounting period hereafter selected and designated by the City Council of the City as the Fiscal Year of the City.

"Fitch" means Fitch, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors or assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the services of a municipal securities rating agency, then "Fitch" shall be deemed to refer to any other nationally recognized municipal securities rating agency rating Parity Obligations at the Request of the City.

"Generally Accepted Accounting Principles" mean the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures selected by the City, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

"Independent Certified Public Accountant" means any certified public accountant or firm of such accountants duly licensed and entitled to practice and practicing as such under the laws of the State, appointed and paid by the City, and who, or each of whom:

(A) is in fact independent according to the Statement of Auditing Standards No. 1 and not under the domination of the City;

(B) does not have a substantial financial interest, direct or indirect, in the operations of the City; and

(C) is not connected with the City as a director, officer or employee of the City, but who may be regularly retained to audit the accounting records of and make reports thereon to the City.

"Independent Engineer" means any registered engineer or firm of registered engineers of national reputation generally recognized to be well qualified in engineering matters relating to public electric utility systems, appointed and paid by the City, and who or each of whom:

(A) is in fact independent and not under the domination of the City;

(B) does not have a substantial financial interest, direct or indirect, in the operations of the City; and

(C) is not connected with the City as a director, officer or employee of the City, but may be regularly retained to make reports to the City.

"Information Services" mean Financial Information, Incorporated's "Daily Called Bond Service," 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302, Attention: Editor; Kenny Information Services, "Called Bond Service," 55 Broad Street, 28th Floor, New York, New York 10004; Moody's "Mergent/FIS, Inc.," 5250 77 Center Drive, Suite 150, Charlotte, North Carolina 28217, Attention: Called Bond Department; and Standard & Poor's Corporation's "Called Bond Record," 25 Broadway, 3rd Floor, New York, New York 10004; or, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other services providing information with respect to called bonds as the Corporation may designate in a Certificate of the Corporation delivered to the Trustee.

"Installment Payments" mean collectively the Series C Installment Payments and the Series D Installment Payments.

"Interest Account" means the account by that name established pursuant to Section 3.03 hereof.

"Interest Installments" mean, with respect to the Series C Installment Payments, the amounts designated a such in Exhibit A to the Agreement; and respect to the Series D Installment Payments, the amounts designated a such in Exhibit B to the Agreement.

"Interest Payment Date" means January 1 and July 1 of each year, commencing _____.

"LIBOR Index Rate" means the rate per annum (rounded upwards, if necessary, to the next higher one hundred-thousandth of a percentage point) for deposits in U.S. Dollars for a period equal to one month which appears on the Telerate Page 3750 as of 11:00 a.m. (London, England time) on the date two Business Days before the determination of the RBI.

"Maintenance and Operation Costs" mean the costs paid or incurred by the City for maintaining and operating the Electric System including, but not limited to, (a) all costs of electric energy and power generated or purchased by the City for resale, costs of transmission, fuel supply and water supply in connection with the foregoing, (b) all expenses of management and repair and other expenses necessary to maintain and preserve the Electric System in good repair and working order, (c) all administrative costs of the City that are charged directly or apportioned to the operation of the Electric System, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums, (d) all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms hereof or of any resolution authorizing the execution of this Agreement or of any resolution authorizing the issuance of any Parity Obligations or of such Parity Obligations, such as compensation, reimbursement and indemnification of the trustee, remarketing agent or surety costs for this Agreement or Parity Obligations, letter of credit fees relating to Installment Payments or Parity Obligations, fees and expenses of Independent Certified Public Accountants and Independent Engineers; (e) all amounts required to be paid by the City under contracts with a joint powers agency for the purchase of capacity, energy, transmission capability or any other commodity or service in connection with the foregoing, which contract requires payments to be made by the City thereunder to be treated as maintenance and operation costs of the Electric System; (f) all deposits to be made to the Rebate Fund pursuant to the Tax Certificate and all deposits in comparable accounts established with respect to Parity Obligations required to be deposited

pursuant to the proceedings authorizing such Parity Obligations; and (g) any other cost or expense which, in accordance with Generally Accepted Accounting Principles, is to be treated as a cost of operating or maintaining the Electric System; but excluding in all cases depreciation, replacement and obsolescence charges or reserves therefor, amortization of intangibles and City Transfers.

“Maximum Annual Debt Service” means, with respect to any Fiscal Year or any other period of twelve consecutive months, the greatest Annual Debt Service payable during such Fiscal Year or other period, as applicable, on the Outstanding Installment Payments and any Outstanding Parity Obligations or Parity Obligations then being issued.

“Moody’s” means Moody’s Investors Service, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors or assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the services of a municipal securities rating agency, then “Moody’s” shall be deemed to refer to any other nationally recognized municipal securities rating agency rating Parity Obligations at the Request of the City.

“Net Proceeds” mean, when used with respect to any condemnation award or with respect to any insurance proceeds, the amount of such condemnation award or such insurance proceeds remaining after payment of all expenses (including attorneys’ fees) incurred in the collection of such award or such proceeds.

“Net Revenues” mean, for any period of time in question, the Revenues during such period less the Maintenance and Operation Costs during such period.

“Option Payment Fund” means the fund so designated which is established pursuant to Section 2.14(a) hereof.

“Option Price” means the amount payable pursuant to Section _____ of Part I of the Amended Agreement upon the exercise by the Corporation of the option to acquire all of Calpine’s rights in and to Parts I and III of the Amended Agreement.

“Original Agreement” means the CAISO energy purchase agreement between the City and Calpine evidenced by the Transaction Confirmation, identified as a CAISO Confirmation, dated February 9, 2001, incorporating the terms and conditions of the Western Systems Power Pool Agreement (version effective July 1, 2000), as modified by such CAISO Confirmation, executed on behalf of Calpine on February 9, 2001 and executed on behalf of the City on February 20, 2001, as modified by that certain letter agreement, dated March 9, 2001, and signed by Dennis W. DeCuir and Janet Dixon.

“Outstanding,” means: (i) when used as of any particular time with reference to Installment Payments, all Installment Payments which have not been paid or otherwise satisfied as provided in Article IX of the Agreement; (ii) when used as of any particular time with reference to Parity Obligations means all Parity Obligations which have not been paid or otherwise satisfied as provided in the proceedings and instruments pursuant to which such Parity Obligations have been issued or incurred; and (iii) when used as of any particular time with reference to Certificates, Certificates evidencing proportionate ownership interests in Installment

Payments which have not been paid or otherwise satisfied as provided in Article IX of the Agreement; For purposes of Section 6.01 and Section 7.13 of the Agreement only, (i) Parity Payment Agreements related to other Parity Obligations which are included in determining Annual Debt Service on such other Parity Obligations, and (ii) Parity Bank Agreements as to which no amounts have been drawn which have not been reimbursed by the City shall not be considered Outstanding for purposes of this Agreement.

“Owner” means any person who shall be the registered owner of any Certificate.

“Parity Bank Agreement” means an agreement with a bank or other financial institution relating to an irrevocable letter of credit, guarantee or other credit enhancement device providing liquidity or irrevocable credit or security for the payment of Parity Obligations.

“Parity Obligations” mean the Prior Parity Obligations and all obligations hereafter issued or incurred by the City the payment of which constitutes a charge and lien on the Net Revenues and moneys in the Electric Revenue Fund equal to and on a parity with the charge and lien upon the Net Revenues for the payment of the Installment Payments.

“Parity Payment Agreement” means a Payment Agreement which is a Parity Obligation.

“Paying Agent” means the paying agent described in Section 6.04 hereof.

“Payment Agreement” means a written agreement for the purpose of managing or reducing the City’s exposure to fluctuations in interest rates or for any other interest rate, investment, cash flow, asset or liability managing purposes, entered into either on a current or forward basis by the City and a Qualified Counterparty in connection with, or incidental to, the entering into of any Parity Obligation, that provides for an exchange of payments based on interest rates, ceilings or floors on such payments, options on such payments, or any combination thereof or any similar device.

“Payment Agreement Payments” mean the amounts required to be paid periodically by the City to the Qualified Counterparty pursuant to a Payment Agreement.

“Payment Agreement Receipts” mean the amounts required to be paid periodically by the Qualified Counterparty to the City pursuant to a Payment Agreement.

“Permitted Investments” mean any of the following obligations if and to the extent that they are permissible investments of funds of the City as stated in its current investment policy (copies of which the Corporation shall cause the City to provide on a current basis to the Trustee) and to the extent then permitted by law:

A. Direct obligations of the United States (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States.

B. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are

backed by the full faith and credit of the United States (stripped securities are only permitted if they have been stripped by the agency itself):

1. Farmers Home Administration ("FmHA")
Certificates of beneficial ownership
2. Federal Housing Administration Debentures ("FHA")
3. General Services Administration
Participation certificates
4. Government National Mortgage Association ("GNMA")
GNMA - guaranteed mortgage-backed bonds
GNMA - guaranteed pass-through obligations (participation certificates) (not acceptable for certain cash-floor sensitive issues)
5. United States Maritime Administration
Guaranteed Title XI financing
6. United States Department of Housing and Urban Development
Project Notes
Local Authority Bonds

C. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit United States government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

1. Federal Home Loan Bank System
Senior debt obligations
2. Federal Home Loan Mortgage Corporation ("FHLMC")
Participation Certificates
Senior debt obligations
3. Federal National Mortgage Association ("FNMA")
Mortgage-backed securities and senior debt obligations (excluded are stripped mortgage securities which are valued greater than par on the portion of unpaid principal)
4. Student Loan Marketing Association
Senior debt obligations
5. Resolution Funding Corporation obligations (only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable)

6. Farm Credit System
Consolidated system-wide bonds and notes

D. Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of "AAA-m-G," "AAA-m" or "AA-m" and if rated by Moody's rated "Aaa," "Aa1" or "Aa2," including funds for which the Trustee or any of its affiliates (including any holding company, subsidiaries, or other affiliates) provides investment advisory or other management services, provided such funds satisfy the criteria herein contained.

E. Certificates of deposit secured at all times by collateral described in (A) and/or (B) above. Such certificates must be issued by commercial banks (including affiliates of the Trustee), savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral.

F. Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates) which are fully insured by FDIC, including BIF and SAIF.

G. Investment Agreements, including Guaranteed Investment Agreements, Forward Purchase Agreements and Reserve Fund Put Agreements acceptable to the Certificate Insurer.

H. Commercial paper rated, at the time of purchase, "Prime - 1" by Moody's and "A-1" or better by S&P.

I. Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies.

J. Federal funds or bankers acceptances with a maximum term of one year of any bank (including those of the Trustee and its affiliates) which has an unsecured, uninsured and unguaranteed obligation rating of "Prime - 1" or "A3" or better by Moody's and "A-1" or "A" or better by S&P.

K. Repurchase Agreements for 30 days or less must follow the following criteria. Repurchase Agreements which exceed 30 days must be acceptable to the Certificate Insurer Repurchase agreements provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date.

1. Repurchase agreements must be between the municipal entity and a dealer bank or securities firm

- a. Primary dealers on the Federal Reserve reporting dealer list which are rated “A” or better by S&P and Moody’s, or
 - b. Banks rated “A” or above by S&P and Moody’s.
2. The written repurchase agreements contract must include the following:
- a. Securities which are acceptable for transfer are:
 - (1) Direct United States governments, or
 - (2) Federal agencies backed by the full faith and credit of the United States government (and FNMA & FHLMC)
 - b. The term of a repurchase agreement may be up to 30 days
 - c. The collateral must be delivered to the municipal entity, trustee (if trustee is not supplying the collateral) or third party acting as agent for the trustee (if the trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).
 - d. Valuation of Collateral
 - (1) The securities must be valued weekly, marked-to-market at current market price plus accrued interest
 - (a) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.
3. A legal opinion must be delivered to the municipal entity to the effect that the repurchase agreement meets guidelines under state law for legal investment of public funds.

L. Any state administered pool investment fund in which the City is statutorily permitted or required to invest will be deemed a permitted investment,

including, but not limited to the Local Agency Investment Fund in the treasury of the State.

“Person” means an individual, corporation, firm, association, partnership, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

“Prepayment Account” means the account by that name established pursuant to Section 3.03 hereof.

“Principal Account” means the account by that name in the Debt Service Fund established pursuant to Section 3.03 hereof.

“Principal Installments” mean: (i) with respect to the Series C Installment Payments, the ~~amount~~amounts designated as such in Exhibit A to the Agreement; and (ii) with respect to the Series D Installment Payments, the ~~amount~~amounts designated as such in Exhibit B to the Agreement.

“Principal Payment Date” means each date on which a Principal Installment is due and payable, whether on a scheduled payment date set forth in the applicable Exhibit to the Agreement, a mandatory prepayment date or acceleration of the maturity of the Principal Installments.

“Prior Parity Obligations” means amounts secured as to payment by a pledge of the Net Revenues and amounts on deposit in the Electric Revenue Fund pursuant to that certain Installment Purchase Agreement, dated as of January 1, 2002, between the City and the Corporation and any Liquidity Facility (as defined in such Installment Purchase Agreement) and Parity Payment Agreement entered into in connection therewith.

“Qualified Counterparty” means a party (other than the City) who is the other party to a Payment Agreement and (1) (a) whose senior debt obligations are rated in one of the three (3) highest rating categories of each of the Rating Agencies then rating the Series C Certificates or any Parity Obligations (without regard to any gradations within a rating category), or (b) whose obligations under the Payment Agreement are guaranteed for the entire term of the Payment Agreement by a bond insurer or other institution which has been or whose debt service obligations have been assigned a credit rating in one of the three highest rating categories of each of the Rating Agencies then rating the Certificates or any Parity Obligations (without regard to any gradations within a rating category), and (2) who is otherwise qualified to act as the other party to a Payment Agreement with the City under any applicable laws.

“Rate Stabilization Fund” means the fund by that name heretofore established and maintained by the City.

“Rating Agencies” mean S&P and Fitch, and their respective successors or assigns, or any other nationally recognized securities rating agency or agencies rating the Certificates or any Outstanding Parity Obligations at the Request of the City.

“RBI” means the Bond Buyer Revenue Bond Index or comparable index of long-term municipal obligations chosen by the City, or, if no comparable index can be obtained, eighty percent (80%) of the LIBOR Index Rate.

“Rebate Fund” means the City of Lodi Electric System 2002 Certificates Rebate Fund established pursuant to Section 3.05 of this Trust Agreement.

“Receipts Pledged to Above-Market Costs” mean any income, revenue or receipts received or receivable by the City, or any other person or entity, from any source, including income, revenue or receipts which would otherwise constitute Revenues, which are pledged, dedicated or otherwise to be set aside for the payment, prepayment, or making provision for the payment or prepayment of, those Above-Market Costs relating to assets or obligations of the Electric System in existence as of the date of the initial execution and delivery of the Certificates.

“Record Date” means the fifteenth day of the month prior to an Interest Payment Date whether or not a Business Day.

“Representation Letter” means the letter of representation to The Depository Trust Company, New York, New York, from the City.

“Request of the City” means an instrument in writing signed by the City Manager of the City, the Finance Director, or any other officer of the City duly authorized by the City Council for that purpose.

“Reserve Fund” means the City of Lodi Electric System 2002 Series C and D Certificates Reserve Fund established pursuant to Section 3.04 of this Trust Agreement.

“Reserve Requirement” means with respect to the Certificates, as of any date of determination, the least of (a) ten percent (10%) of the initial offering price to the public of the Certificates as determined under the Code, or (b) the greatest Annual Debt Service with respect to the Installment Payments in any Fiscal Year during the period commencing with the Fiscal Year in which the determination is being made and terminating with the last Fiscal Year in which any Installment Payment is due, or (c) one hundred twenty-five percent (125%) of the sum of the Annual Debt Service with respect to the Installment Payments for all Fiscal Years during the period commencing with the Fiscal Year in which such calculation is made (or if appropriate, the first full Fiscal Year following the execution and delivery of the Certificates) and terminating with the last Fiscal Year in which any Installment Payment is due, divided by the number of such Fiscal Years, all as computed and determined by the City and specified in writing to the Trustee; provided, that such requirement (or any portion thereof) may be provided by one or more Financial Guaranties. If at any time obligations insured or issued by the issuer of a Financial Guaranty shall no longer maintain the required ratings set forth in the definition of “Financial Guaranty” above, the City shall provide or cause to be provided cash or a substitute Financial Guaranty meeting such requirements.

“Revenues” mean all gross income and revenue received or receivable by the City from the ownership or operation of the Electric System, including all rates and charges for the Electric Service and the other services and facilities of the Electric System, all proceeds of insurance

covering business interruption loss relating to the Electric System and all other income and revenue howsoever derived by the City from the ownership or operation of the Electric System or otherwise arising from the Electric System, including all Payment Agreement Receipts, and all income from the deposit or investment of any money in the Electric Revenue Fund, but excluding (i) proceeds of taxes, (ii) refundable deposits made to establish credit and advances or contributions in aid of construction and line extension fees, and (iii) Receipts Pledged to Above-Market Costs.

“S&P” means Standard & Poor’s Ratings Service, a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors or assigns, except that if such entity shall be dissolved or liquidated or shall no longer perform the services of a municipal securities rating agency, then “S&P” shall be deemed to refer to any other nationally recognized municipal securities rating agency rating Parity Obligations at the Request of the City.

“Securities Depositories” mean: The Depository Trust Company, 711 Stewart Avenue, Garden City, New York 11530, Fax (516) 227-4039 or 4190; or, in accordance with then-current guidelines of the Securities and Exchange Commission, such other securities depositories as the Corporation may designate in a Certificate of the Corporation to the Trustee.

“Series” means, with respect to the Certificates, the Series C Certificates or the Series D Certificates.

“Series C Certificates” means the Electric System Revenue Certificates of Participation 2002 Series C evidencing proportionate, ownership interests of the Owners thereof in the Series C Installment Payments.

“Series C Installment Payments” means the Installment Payments set forth in Exhibit A to the Agreement.

“Series C Insurance Policy” means the Financial Guaranty Insurance Policy issued by the Certificate Insurer insuring the payment when due of the principal of and interest on the Series C Certificates as provided therein.

“Series C Surety Bond” means the debt service reserve fund surety bond issued by the Certificate Insurer which shall be deposited in the Reserve Fund pursuant to Section 3.04 hereof to satisfy the initial Reserve Requirement upon the execution and delivery of the Series C Certificates.

“Series D Certificates” means the Electric System Revenue Certificates of Participation, 2002 Taxable Series D, evidencing proportionate, ownership interests of the Owners thereof in the Series D Installment Payments.

“Series D Installment Payments” means the Installment Payments set forth in Exhibit B to the Agreement.

“Series D Insurance Policy” means the Financial Guaranty Insurance Policy issued by the Certificate Insurer insuring the payment when due of the principal of and interest on the Series D Certificates as provided therein.

“Series D Surety Bond” means the debt service reserve fund surety bond issued by the Certificate Insurer which shall be deposited in the Reserve Fund pursuant to Section 3.04 hereof to satisfy the initial Reserve Requirement upon the execution and delivery of the Series D Certificates.

“State” means the State of California.

“Subordinate Obligations” mean obligations of the City authorized and executed by the City under applicable law, the payments under and pursuant to which are payable from Net Revenues, subject and subordinate to the payment of the Installment Payments hereunder and to the payment of Parity Obligations. Such obligations may be payable from any fund established for the purpose of paying debt service on such Subordinate Obligations.

“Supplemental Trust Agreement” means any trust agreement then in full force and effect which has been duly executed and delivered by the Corporation and the Trustee amendatory hereof or supplemental hereto; but only if and to the extent that such Supplemental Trust Agreement is specifically authorized hereunder.

“Tax Certificate” means the Tax Certificate and Agreement concerning certain matters pertaining to the use and investment of proceeds of the Certificates, executed and delivered by the City on the date of delivery of the Certificates, including any and all exhibits attached thereto.

“Tax-exempt” means, with respect to interest on any obligations of a state or local government, including the Interest Installments evidenced by the Series C Certificates, that such interest is excluded from gross income for federal income tax purposes (other than in the case of a holder of any such obligation who is a substantial user of the facilities financed with such obligations or a related person within the meaning of Section 147(a) of the Code) whether or not such interest is includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

“Trust Agreement” means this Trust Agreement, dated as of November 1, 2002, between the Corporation and the Trustee, as originally executed and as it may from time to time be amended or supplemented by all Supplemental Trust Agreements executed pursuant to the provisions hereof.

“Trustee” means BNY Western Trust Company, or any other association or corporation which may at any time be substituted in its place as provided in Section 6.01 hereof.

“Variable Interest Rate” means any variable interest rate or rates to be paid under any Parity Obligations, the method of computing which variable interest rate shall be as specified in the applicable Parity Obligation, which Parity Obligation shall also specify either (i) the payment period or periods or time or manner of determining such period or periods or time for which each

value of such variable interest rate shall remain in effect, and (ii) the time or times based upon which any change in such variable interest rate shall become effective, and which variable interest rate may, without limitation, be based on the interest rate on certain bonds or may be based on interest rate, currency, commodity or other indices.

“Variable Interest Rate Parity Obligations” mean, for any period of time, all in accordance with the definition of “Annual Debt Service” set forth in this Section 1.01, any Parity Obligations that bear a Variable Interest Rate during such period, except that (i) Parity Obligations shall not be treated as Variable Interest Rate Parity Obligations if the net economic effect of interest rates on particular payments of the Parity Obligations and interest rates on other payments of the same Parity Obligations, as set forth in such Parity Obligations, or the net economic effect of a Payment Agreement with respect to particular Parity Obligations, in either case, is to produce obligations that bear interest at a fixed interest rate, and (ii) Installment Payments and Parity Obligations with respect to which a Payment Agreement is in force shall be treated as Variable Interest Rate Parity Obligations if the net economic effect of the Payment Agreement is to produce obligations that bear interest at a Variable Interest Rate.

“Written Request of the Corporation” means an instrument in writing signed by the Treasurer of the Corporation or by any other officer of the Corporation duly authorized by the Corporation for that purpose.

Section 1.02 **Rules of Construction.** The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith,” “hereunder” and other words of similar import refer to this Trust Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

References in this Trust Agreement and the Agreement to the principal or principal amount of Certificates shall refer to the Principal Installments as to which such Certificates evidence proportionate, ownership interests. References in this Trust Agreement and the Agreement to interest on Certificates or interest borne by Certificates shall refer to the Interest Installments as to which such Certificates evidence proportionate, ownership interests.

Section 1.03 **Equal Security.** In consideration of the acceptance of the Certificates by the Owners thereof, this Trust Agreement shall be deemed to be and shall constitute a contract between the Corporation and the Owners from time to time of all Certificates authorized, executed and delivered hereunder and then Outstanding to secure the full and final payment of the interest, and principal and prepayment premiums, if any, evidenced by the Certificates which may from time to time be authorized, executed and delivered hereunder, subject to the agreements, conditions, covenants and provisions contained herein; and all agreements and covenants set forth herein to be performed by or on behalf of the Trustee shall be for the equal and proportionate benefit, protection and security of all Owners without distinction, preference or priority as to security or otherwise of any Certificates over any other Certificates by reason of the number or date thereof or the time of authorization, execution or delivery thereof or for any cause whatsoever, except as expressly provided herein or therein.

ARTICLE II

THE CERTIFICATES

Section 2.01 **The Certificates.** (a) The Trustee is hereby authorized and directed to execute and deliver the Series C Certificates in the aggregate principal amount of \$ _____, evidencing proportionate ownership interests in the Series C Installment Payments. The Series C Certificates shall be designated "Electric System Revenue Certificates of Participation 2002 Series C".

The Trustee is hereby authorized and directed to execute and deliver the Series D Certificates in the aggregate principal amount of \$ _____, evidencing proportionate ownership interests in the Series D Installment Payments. The Series D Certificates shall be designated "Electric System Revenue Certificates of Participation 2002 Taxable Series D".

Section 2.02 **General Terms of the Certificates.** (a) Each Series C Certificate shall be dated November __, 2002, and shall mature (subject to prior prepayment or acceleration) on its Certificate Payment Date. The Series C Certificates shall have Certificate Payment Dates on the dates and in the principal amounts and evidence Interest Installments of the Series C Installment Payments calculated at the rates as set forth in the following schedule:

Certificate Payment Date (July 1)	Principal Amount	Interest Rate
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~~(b) The Interest Installments of the Installment Payments evidenced by the Series C Certificates are payable in lawful money of the United States of America at the rates (based on a 360 day year of twelve 30 day months) set forth above, payable on each Interest Payment Date in each year to the respective Certificate Payment Date or prepayment prior thereto. The Series C Certificates shall evidence Interest Installments of the Series C Installment Payments from the Interest Payment Date next preceding the date of execution thereof, unless such date of execution is after a Record Date and on or before the following Interest Payment Date, in which event they shall evidence interest from such Interest Payment Date, or unless such date of execution is on or before the Record Date for the first Interest Payment Date for the Series C Certificates, in which event such Certificate shall evidence interest from _____; provided, that if at the time of execution of any Outstanding Series C Certificate, interest evidenced by such Series C Certificate is then in default, such Certificate shall evidence interest~~

from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Series C Certificate.

(c) (b) Each Series D Certificate shall be dated November __, 2002, and shall mature (subject to prior prepayment or acceleration) on its Certificate Payment Date. The Series D Certificates shall have Certificate Payment Dates on the dates and in the principal amounts and evidence Interest Installments of the Series D Installment Payments calculated at the rates as set forth in the following schedule:

Certificate Payment Date (July 1)	Principal Amount	Interest Rate
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(d) ~~The Interest Installments of the Installment Payments evidenced by the Series D Certificates are payable in lawful money of the United States of America at the rates (based on a 360-day year of twelve 30-day months) set forth above, payable on each Interest Payment Date in each year to the respective Certificate Payment Date or prepayment prior thereto.~~ The Series D Certificates shall evidence Interest Installments of the Series D Installment Payments from the Interest Payment Date next preceding the date of execution thereof, unless such date of execution is after a Record Date and on or before the following Interest Payment Date, in which event they shall evidence interest from such Interest Payment Date, or unless such date of execution is on or before the Record Date for the first Interest Payment Date for the Series D Certificates, in which event such Certificate shall evidence interest from _____; provided, that if at the time of execution of any Outstanding Series D Certificate, interest evidenced by such Series D Certificate is then in default, such Certificate shall evidence interest from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Series D Certificate.

(e) **The Certificates shall be issuable only in Authorized Denominations. The Series A Certificates shall be issued in substantially the form set forth in Exhibit A of this Trust Agreement with such variations, insertions or omissions for the Certificates as are appropriate and not inconsistent therewith and shall conform generally to the rules and regulations of any governmental authority or usage or requirement of law with respect thereto. The Series D Certificates shall be issued in substantially the form set forth in Exhibit B of this Trust Agreement with such variations, insertions or omissions for the Certificates as are appropriate and not inconsistent therewith and shall conform generally to the rules and regulations of any governmental authority or usage or requirement of law**

with respect thereto. The Certificates of each Series shall be numbered from one upward and may bear such additional letters, numbers, legends or designations as the Trustee determines are desirable. The Certificates may be printed, lithographed or typewritten.

(f) The principal of and premium, if any, and interest on the Certificates shall be payable in lawful money of the United States of America. Payment of interest on each Certificate shall be made on each Interest Payment Date to the Person appearing on the Certificate Register as the Owner thereof on the applicable Record Date, such interest to be paid by the Trustee (i) to such Owner by check mailed by first class mail on the Interest Payment Date, to such Owner's address as it appears on the Certificate Register or at such other address as has been furnished to the Trustee in writing by such Owner not later than the applicable Record Date, or (ii) upon written request at least three Business Days prior to the applicable Record Date, to the Owner of Certificates aggregating not less than \$1,000,000 in principal amount, by wire transfer in immediately available funds to an account maintained in the United States as such Owner shall specify in its written notice; except, in each case, that if and to the extent that there shall be a default in the payment of the interest due on such Interest Payment Date, such defaulted interest shall be paid to the Owners in whose name any such Certificates are registered at the close of business on the fifth Business Day next preceding the date of payment of such defaulted interest. The principal of and premium, if any, on the Certificates shall be payable by check of the Trustee upon surrender thereof at the Corporate Trust Office of the Trustee.

(g) ~~(e)~~ The Certificates shall be subject to prepayment as provided in Sections 2.03 and 2.04 hereof.

Section 2.03 **Mandatory Prepayment.** (a) The Series C Certificates with a Certificate Payment Date of _____ shall be subject to mandatory prepayment prior to their Certificate Payment Date, in part **by lot**, on _____ and on each _____ thereafter in a principal amount equal to the Principal Installments of the Series C Installment Payments due pursuant to the Agreement on such date at a prepayment price equal to the principal amount of the Series C Certificates to be prepaid plus accrued but unpaid interest thereon to the prepayment date, without premium.

(b) The Series D Certificates with a Certificate Payment Date of _____ shall be subject to mandatory prepayment prior to their Certificate Payment Date, in part **by lot**, on _____ and on each _____ thereafter in a principal amount equal to the Principal Installments of the Series D Installment Payments due pursuant to the Agreement on such date at a prepayment price equal to the principal amount of the Series D Certificates to be prepaid plus accrued but unpaid interest thereon to the prepayment date, without premium.

Section 2.04 **Optional Prepayment.** (a) The Series C Certificates ~~maturing~~**with a Certificate Payment Date** on ~~and/or~~ after _____ shall be subject to prepayment in whole on any date, or in part ~~on~~ any Interest Payment Date, on and after _____, but only at the option and upon the request of the City pursuant to Section 3.02 of the Agreement, at the prepayment prices (expressed as percentages of the principal amount of Series

C Certificates to be prepaid) set forth below, plus accrued but unpaid interest, if any, to the prepayment date:

<u>Prepayment Date</u>	<u>Prepayment Price</u>
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(b) The Series D Certificates maturing ~~with a Certificate Payment Date~~ on ~~and~~ after _____ shall be subject to prepayment in whole on any date, or in part ~~on~~ any Interest Payment Date, on and after _____, but only at the option and upon the request of the City pursuant to Section 3.02 of the Agreement, at the prepayment prices (expressed as percentages of the principal amount of Series D Certificates to be prepaid) set forth below, plus accrued but unpaid interest, if any, to the prepayment date:

<u>Prepayment Date</u>	<u>Prepayment Price</u>
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Section 2.05 Selection of Certificates for Prepayment.

~~The City may select the principal amount of Certificates of each Series and Certificate Payment Date to be prepaid with optional prepayments of Installment Payments pursuant to Section 3.02 of the Agreement. If less than all Outstanding Certificates of any particular Series with the same Certificate Payment Date are to be prepaid at any one time, the Trustee shall select the Certificates or the portions of the Certificates of such Series to be prepaid by lot in a manner which the Trustee deems to be fair. For purposes of selecting Certificates to be prepaid, Certificates of each Series with the same Certificate Payment Date shall be deemed to be composed of five thousand dollars (\$5,000) multiples and any such multiple of principal amount as may be separately prepaid, subject to the requirement that the unpaid balance of any Certificate prepaid in part must be in an Authorized Denomination.~~

Section 2.06 Notice of Prepayment.

Notice of prepayment of Certificates shall be mailed by the Trustee, not less than thirty (30) nor more than sixty (60) days prior to the prepayment date to (i) the respective Owners of the Certificates designated for prepayment at their addresses appearing in the Certificate Register, (ii) the Securities Depositories and (iii) one or more Information Services. Notice of prepayment to the Securities Depositories and the Information Services shall be given by registered mail, certified mail, overnight delivery or facsimile transmission or by such other method acceptable to such institutions. Each notice of prepayment shall state the date of such notice, the prepayment price, the place of prepayment (including the name and appropriate address of the Trustee), the CUSIP number (if any) of the Certificates to be prepaid, and, if less than all of the Certificates of any one Series are to be prepaid, the distinctive certificate numbers of the Certificates of such Series to be prepaid and, in the case of Certificates to be prepaid in part only, the respective portions of the principal amount thereof to be prepaid. Each such notice shall also state that on said date there will become due and payable on each of said Certificates the prepayment price thereof and in the case of a Certificate to be prepaid in part only, the specified portion of the principal amount thereof to be prepaid, with accrued and unpaid interest thereof to the prepayment date, and that from and after such prepayment date interest thereon shall cease to accrue, and shall require that such Certificates be then surrendered at the address of the Trustee specified in the prepayment notice. Failure to receive such notice shall not invalidate any of the proceedings taken in connection with such prepayment. The failure to receive such notice nor any defect therein shall affect the sufficiency of such prepayment.

In the event of prepayment of Certificates with optional prepayments of Installment Payments pursuant to Section 3.02 of the Agreement, the Trustee shall mail a notice of prepayment upon receipt of a Written Request of the City but only after the City shall file a Certificate of the City with the Trustee that on or before the date set for prepayment, the City will deposit with or otherwise make available to the Trustee for deposit in the Debt Service Fund the money required for payment of the prepayment price, including accrued interest thereon, of all Certificates then to be called for prepayment (or the Trustee determines that money will be deposited with or otherwise made available to it in sufficient time for such purpose), together with the estimated expense of giving such notice.

If notice of prepayment has been duly given as aforesaid and money for the payment of the prepayment price of the Certificates called for prepayment is held by the Trustee, then on the prepayment date designated in such notice the Certificates (or portions thereof) so called for prepayment shall become due and payable, and from and after the prepayment date so designated interest on such Certificates shall cease to accrue, such Certificates (or portions thereof) shall cease to be entitled to any benefit or security under this Trust Agreement and the Owners of such Certificates shall have no rights in respect thereof except to receive payment of the prepayment price thereof from the moneys held by the Trustee for such purpose, and such moneys are hereby pledged to such payment.

All Certificates prepaid pursuant to the provisions of this Section shall be cancelled and destroyed by the Trustee and shall not be redelivered.

Section 2.07 **Execution of Certificates.** The Certificates shall be executed by the Trustee by the manual signature of an authorized officer or signatory of the Trustee.

Section 2.08 **Transfer and Payment of Certificates.** Any Certificate may, in accordance with its terms, be transferred in the Certificate Register by the Person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificates at the Corporate Trust Office of the Trustee for cancellation accompanied by delivery of a duly executed written instrument of transfer in a form acceptable to the Trustee. Whenever any Certificate or Certificates shall be surrendered for transfer, the Trustee shall execute and deliver to the transferee a new Certificate or Certificates of the same Certificate Payment Date evidencing and representing a like aggregate principal amount in authorized denominations. The Trustee shall require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer as a condition precedent to the exercise of such privilege. Services rendered and reasonable expenses incurred by the Trustee, including the cost of printing any new Certificate, in connection with a transfer pursuant to this Section shall be paid by the City.

The Trustee may deem and treat the registered owner of any Certificates as the absolute owner of such Certificates for the purpose of receiving payment of the principal and interest and prepayment premium, if any, evidenced thereby and for all other purposes, whether such Certificates shall be overdue or not, and the Trustee shall not be affected by any notice or knowledge to the contrary; and payment of the interest and principal and prepayment premium, if any, evidenced by such Certificates shall be made only to such registered owner, which payments shall be valid and effectual to satisfy and discharge liability on such Certificates to the extent of the sum or sums so paid.

The Trustee shall not be required to register the transfer of any Certificate during the period commencing on the date 15 days preceding the selection of Certificates for prepayment and ending on the date of mailing of notice of such prepayment, or any Certificate which has been selected for prepayment in whole or in part, from and after the day of mailing of a notice of prepayment of such Certificates selected for prepayment in whole or in part.

Section 2.09 **Exchange of Certificates.** Certificates may be exchanged at the Corporate Trust Office of the Trustee for Certificates evidencing and representing a like

aggregate principal amount of Certificates of the same ~~Series and~~ **Authorized** Certificate Payment Date of other ~~authorized~~ **Authorized** denominations **Denominations**. The Trustee shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange as a condition precedent to the exercise of such privilege. Services rendered and reasonable expenses incurred by the Trustee, including the cost of printing any new Certificate, in connection with an exchange pursuant to this Section shall be paid by the City.

The Trustee shall not be required to exchange any Certificate during the period commencing on the date 15 days preceding the selection of Certificates for prepayment and ending on the date of mailing of notice of such prepayment, or any Certificate which has been selected for prepayment in whole or in part, from and after the day of mailing of a notice of prepayment of such Certificates to the date of prepayment thereof.

Section 2.10 **Certificate Registration Books.** The Trustee will keep at its Corporate Trust Office sufficient books for the registration and transfer of the Certificates which shall at all times be open to inspection by the Corporation during regular business hours with reasonable prior notice, and upon presentation for such purpose the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer the Certificates in such books as hereinabove provided.

Section 2.11 **Mutilated, Destroyed, Stolen or Lost Certificates.** If any Certificate shall become mutilated the Trustee, at the expense of the Owner, shall thereupon execute and deliver a new Certificate of like tenor and amount in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trustee shall be cancelled and destroyed.

If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Owner, shall thereupon execute and deliver a new Certificate of like tenor in lieu of and in substitution for the Certificate so lost, destroyed or stolen.

The Trustee may require payment of a reasonable sum for each new Certificate delivered under this Section and of the expenses which may be incurred by the Corporation and the Trustee in the premises. Any Certificate executed and delivered under the provisions of this Section in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Trust Agreement with all other Certificates secured by this Trust Agreement. The Trustee shall not be required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the principal amount of Certificates which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same.

Section 2.12 **Temporary Certificates.** The Certificates executed and delivered under this Trust Agreement may be initially executed and delivered in temporary form exchangeable for definitive Certificates when ready for delivery. The temporary Certificates may be printed,

lithographed or typewritten, shall be of such denominations as may be determined by the Trustee, shall be in fully registered form and may contain such reference to any of the provisions of this Trust Agreement as may be appropriate. Every temporary Certificate shall be executed and delivered by the Trustee, upon the same conditions and terms and in substantially the same manner as definitive Certificates. If the Trustee executes and delivers temporary Certificates it will execute and furnish definitive Certificates and thereupon the temporary Certificates may be surrendered, for cancellation, in exchange therefor at the Corporate Trust Office of the Trustee, and the Trustee shall deliver in exchange for such temporary Certificates definitive Certificates evidencing and representing an equal aggregate principal amount of Certificates of authorized denominations. Until so exchanged, the temporary Certificates shall be entitled to the same benefits under this Trust Agreement as definitive Certificates delivered hereunder.

Section 2.13 Use of Book-Entry System for Certificates.

(a) The Certificates of each Series initially shall be delivered in the form of a single executed fully registered securities certificate for each stated Certificate Payment Date of such Certificates, in the aggregate principal amount of the Certificates of such Certificate Payment Date. Upon initial delivery, the ownership of all such Certificates shall be registered in the registration records maintained by the Trustee pursuant to Section 2.10 hereof in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), or such other nominee as DTC shall request pursuant to the Representation Letter. The Trustee may treat DTC (or its nominee) as the sole and exclusive owner of the Certificates registered in its name for the purposes of payment of the principal amount or prepayment price and interest on such Certificates, selecting the Certificates or portions thereof of each Series to be prepaid, giving any notice permitted or required to be given to Owners hereunder, registering the transfer of Certificates, obtaining any consent or other action to be taken by Owners of the Certificates and for all other purposes whatsoever; and the Trustee shall not be affected by any notice to the contrary. Neither the Trustee nor the Corporation shall have any responsibility or obligation to any Participant (which shall mean, for purposes of this Section, securities brokers and dealers, banks, trust companies, clearing corporations and other entities, some of whom directly or indirectly own DTC), any person claiming a beneficial ownership interest in the Certificates under or through DTC or any Participant, or any other person which is not shown on the registration records as being an Owner of Certificates, with respect to (i) the accuracy of any records maintained by DTC or any Participant, (ii) the payment by DTC or any Participant of any amount in respect of the principal amount or prepayment price of or interest on the Certificates (iii) any notice which is permitted or required to be given to Owners of Certificates hereunder, (iv) the selection by DTC or any Participant of any person to receive payment in the event of a partial prepayment of the Certificates, or (v) any consent given or other action taken by DTC as Owner of Certificates. The Trustee shall pay all principal amount and prepayment price of and interest on the Certificates only at the times, to the accounts, at the addresses and otherwise in accordance with the Representation Letter, and all such payments shall be valid and effective to satisfy fully and discharge the principal amount and prepayment price of and interest on the Certificates to the extent of the sum or sums so paid. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of its then existing nominee, the Certificates will be transferable to such new nominee in accordance with subsection (c) of this Section.

(b) In the event that the Corporation determines that the beneficial owners of the Certificates should obtain securities certificates, the Trustee shall, upon the written instruction of the Corporation, so notify DTC, whereupon DTC shall notify the Participants of the availability through DTC of securities certificates. In such event, the Certificates will be transferable in accordance with subsection (c) of this Section. DTC may determine to discontinue providing its services with respect to the Certificates at any time by giving written notice of such discontinuance to the Corporation and the Trustee and discharging its responsibilities with respect thereto under applicable law. In such event, the Certificates will be transferable in accordance with subsection (c) of this Section. Whenever DTC requests the Corporation and the Trustee to do so, the Trustee and the Corporation will cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of all certificates evidencing the Certificates then Outstanding. In such event, the Certificates will be transferable to such securities depository in accordance with subsection (c) of this Section, and thereafter, all references in this Trust Agreement to DTC or its nominee shall be deemed to refer to such successor securities depository and its nominee, as appropriate.

(c) In the event that any transfer or exchange of Certificates is authorized under subsection (a) or (b) of this Section, such transfer or exchange shall be accomplished upon receipt by the Trustee from the registered owner of the Certificates to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee, all in accordance with the applicable provisions of Sections ~~2-122.08~~ and ~~2-132.09~~ hereof. In the event ~~certificates~~**Certificates** are delivered to Owners other than Cede & Co., its successor as nominee for DTC as Owner of all the Certificates, another securities depository as Owner of all the Certificates, or the nominee of such successor securities depository, the provisions of Sections ~~2-122.08~~ and ~~2-132.09~~ hereof shall also apply to, among other things, the registration, exchange and transfer of the Certificates and the method of payment of principal amount or prepayment price of and Interest Installments evidenced by the Certificates.

Section 2.14 Procedure for the Delivery of Certificates. The Trustee is hereby authorized to execute and deliver the Certificates to the purchaser thereof upon the Written Request of the Corporation and upon receipt of the proceeds of the sale thereof and receipt of the Certificate Insurance Policies, the Series C Surety Bond, the Series D Surety Bond and the other documents required by Section 6.01 of the Prior Agreement to constitute the Installment Payments as Parity Obligations (as defined in the Prior Agreement).

~~Section 2.14 Procedure for the Delivery of Certificates. The Trustee is hereby authorized to execute and deliver the Certificates to the purchaser thereof upon the Written Request of the Corporation and upon receipt of the proceeds of the sale thereof and receipt of the Certificate Insurance Policies and the Series C Surety Bond and the Series D Surety Bond.~~

Upon receipt of the proceeds of the sale of the Series C Certificates from the purchaser thereof in the amount of \$ _____ (representing an aggregate **principal** amount of \$ _____, less an Underwriter's discount of \$ _____, **plus \$ _____ in accrued interest,** less \$ _____ premium for the Series C Insurance Policy and less \$ _____ premium for the Series C Surety Bond to be wired by such purchaser to the Certificate Insurer), and upon receipt of the proceeds of the sale of the Series D Certificates from

the purchaser thereof in the amount of \$_____ (representing an aggregate principal amount of \$_____, less an Underwriter's discount of \$_____, plus \$_____ in accrued interest, less \$_____ premium for the Series D Insurance Policy and less \$_____ premium for the Series D Surety Bond to be wired by such purchaser to the Certificate Insurer), the Trustee shall set aside and deposit the balance of the proceeds received from such sales in the following respective accounts or funds or with the following respective persons, in the following order of priority:

(a) The Trustee shall, ~~at the written request of the Corporation, pay deposit~~ the sum of \$_____ ~~from the proceeds in the Option Payment Fund, which fund is hereby created with the Trustee. The Trustee shall maintain the Option Payment Fund until the withdrawal therefrom~~ of the sale of the Series C Certificates to the transferor of the Corporation's rights in and to Parts I and III of the Amended Agreement, all as specified in such written request; and amounts therein. All money in the Option Payment Fund shall be used and withdrawn by the Trustee to pay the Option Price upon receipt of a Written Request of the Corporation filed with the Trustee.

(b) The Trustee shall deposit the sum of \$_____ in the Series C Cost of Issuance Account in the Costs of Issuance Fund, which fund and account are hereby created with the Trustee, and the Trustee shall deposit the sum of \$_____ in the Series D Cost of Issuance Account in the Cost of Issuance Fund, which account is hereby created with the Trustee. The Trustee shall maintain the Cost of Issuance Fund until _____, 2003. All money in the Series C Costs of Issuance Account shall be used and withdrawn by the Trustee to pay the Costs of Issuance of the Series C Certificates upon receipt of a Written Request of the Corporation filed with the Trustee, and all money in the Series D Costs of Issuance Account shall be used and withdrawn by the Trustee to pay the Costs of Issuance of the Series D Certificates upon receipt of a Written Request of the Corporation filed with the Trustee, each of which shall be sequentially numbered and shall state the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. On _____, 2003 or upon the earlier Written Request of the Corporation, any remaining balance in the accounts within the Costs of Issuance Fund shall be transferred to the Debt Service Fund.

ARTICLE III

INSTALLMENT PAYMENTS

Section 3.01 **Installment Payments Held in Trust.** The Installment Payments shall be held in trust by the Trustee for the benefit of the Owners from time to time of the Certificates, but shall nonetheless be disbursed, allocated and applied solely for the uses and purposes provided herein.

Section 3.02 **Deposit of Installment Payments.** The Trustee hereby agrees to establish, maintain and hold in trust the "City of Lodi Electric System 2002 Series C and D Certificates Debt Service Fund" (the "Debt Service Fund") for so long as any Certificates shall be Outstanding hereunder. All Installment Payments, including any prepayments thereof pursuant to Section 3.02 of the Agreement, received by the Trustee shall be immediately

deposited in the Debt Service Fund and shall be disbursed and applied only as hereinafter provided.

Section 3.03 Establishment and Maintenance of Accounts for Use of Money in the Debt Service Fund. Subject to Section 5.03 hereof, all money in the Debt Service Fund shall be set aside by the Trustee in the following respective special accounts within the Debt Service Fund (each of which is hereby created and each of which the Trustee hereby agrees and covenants to maintain) in the following order of priority:

- (a) Interest Account,
- (b) Principal Account, and
- (c) Prepayment Account

All money in each of such accounts shall be held in trust by the Trustee for the benefit of the Owners and shall be applied, used and withdrawn only for the purposes hereinafter authorized in this Section.

(d) Interest Account. On each Interest Payment Date, commencing on _____, and on each other date when interest on the Certificates becomes due and payable, whether upon prepayment, acceleration or otherwise, the Trustee shall set aside from the Debt Service Fund and deposit in the Interest Account that amount of money which is equal to the amount of interest on the Certificates becoming due and payable on such Interest Payment Date.

No deposit need be made in the Interest Account if the amount contained therein is at least equal to the aggregate amount of interest on the Certificates becoming due and payable on such Interest Payment Date.

All money in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest as it shall become due and payable (including accrued interest on Certificates purchased or prepaid prior to their respective Certificate Payment Date).

(e) Principal Account. On each Certificate Payment Date, and on each date on which any Certificate is to be prepaid in accordance with the Trust Agreement, the Trustee shall set aside from the Debt Service Fund and deposit in the Principal Account an amount of money equal to the principal amount of the Outstanding Certificates coming due on such date and any prepayment premium payable in connection with the prepayment of Certificates on such date.

No deposit need be made in the Principal Account if the amount contained therein is at least equal to the aggregate amount of the Principal Installments evidenced by the Outstanding Certificates maturing on the next succeeding Certificate Payment Date.

All money in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal amount of Certificates as they shall become due and payable, whether at their respective Certificate Payment Dates or on prior prepayment.

(f) Prepayment Account. All prepayments of Principal Installments made by the City shall be deposited in the Prepayment Account and applied to the payment, or provision for the payments, of Outstanding Certificates as directed by the City.

Section 3.04 **Reserve Fund.**

(a) Upon the execution and delivery of the Certificates, the Trustee shall credit the Series C Surety Bond and the Series D Surety Bond to the Reserve Fund to satisfy the initial Reserve Requirement with respect to the Certificates. The Trustee shall apply proceeds from draws on the Series C Surety Bond to the prepayment of principal and interest on the Series C Certificates as provided in subsections (b) and (c) of this Section. The Trustee shall apply proceeds from draws on the Series D Surety Bond to the payment of principal and interest on the Series D Certificates as provided in subsections (b) and (c) of this Section.

(b) The Trustee hereby agrees and covenants to maintain the Reserve Fund so long as the Agreement has not been discharged in accordance with its terms or any Certificates remain Outstanding hereunder. Amounts on deposit in the Reserve Fund are hereby pledged to the payment of the Certificates. The Trustee shall deposit in the Reserve Fund the Reserve Fund Requirement and such other amounts transferred to the Trustee by the City pursuant to Section 4.01(b)(2) of the Agreement, as directed by the Corporation in a Written Request of the Corporation. Moneys on deposit in the Reserve Fund shall be transferred by the Trustee to the Debt Service Fund to pay principal of and/or interest on the Certificates on each date when such principal and/or interest is due and payable in the event amounts on deposit therein are insufficient for such purposes. All investments in the Reserve Fund shall be valued on January 1 of each year beginning in January 2003. Amounts on deposit in the Reserve Fund in excess of the Reserve Requirement shall, at the Written Request of the Corporation, be withdrawn from the Reserve Fund and transferred to the City for deposit in the Revenue Fund established under the Agreement.

(c) Notwithstanding anything herein to the contrary, at any time one or more Financial Guaranties are on deposit in the Reserve Fund, the Trustee shall:

- (i) provide the issuer of each Financial Guaranty notice in accordance with the terms of such Financial Guaranty of any draw on such Financial Guaranty at least three days prior to the Interest Payment Date or Certificate Payment Date, as applicable, on which the proceeds of such draw are required;
- (ii) withdraw and use all cash on deposit in the Reserve Fund prior to using and withdrawing any amounts derived from payments under any Financial Guaranty;
- (iii) draw on all Financial Guaranties on a pro rata basis based on the draw limit of each such Financial Guaranty, if there is more than one Financial Guaranty on deposit in the Reserve Fund; and
- (iv) maintain adequate records, verified with the issuer of the applicable Financial Guaranty, as to the amount available to be drawn at any

given time under each Financial Guaranty and as to the amounts paid and owing to the issuer of such Financial Guaranty under the terms of such Financial Guaranty.

Section 3.05 Rebate Fund.

(a) The Trustee shall establish and maintain a fund separate from any other fund established and maintained hereunder designated as the "City of Lodi Electric System 2002 Series C Rebate Fund" (the "Rebate Fund"). Within the Rebate Fund, the Trustee shall maintain such accounts as shall be necessary to comply with the terms of the Tax Certificate. Subject to the transfer provisions provided in paragraph (e) below, all money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Certificate), for payment to the government of the United States of America. None of the City, the Corporation nor the Owner of any Certificate shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section, by Section 7.03 of the Agreement and by the Tax Certificate (which is incorporated herein by reference). The Trustee shall be deemed conclusively to have complied with such provisions if it follows the directions of the City, including supplying all necessary information in the manner provided in the Tax Certificate, and shall have no liability or responsibility to enforce compliance by the City with the terms of the Tax Certificate.

(b) Upon the City's written direction, an amount shall be deposited to the Rebate Fund by the Trustee from deposits by the City if and to the extent required, so that the balance of the Rebate Fund after such deposits shall equal the Rebate Requirement. Computations of the Rebate Requirement shall be furnished by or on behalf of the City in accordance with the Tax Certificate.

(c) The Trustee shall have no obligation to rebate any amounts required to be rebated pursuant to this Section other than from moneys held in the Rebate Fund or from other moneys provided to it by the City.

(d) The Trustee shall invest all amounts held in the Rebate Fund in Investment Securities as directed by the City, which directions shall be in compliance with the restrictions set forth in the Tax Certificate. Money shall not be transferred from the Rebate Fund except as provided in paragraph (E) below.

(e) Upon receipt of the City's written directions, the Trustee shall remit part or all of the balances in the Rebate Fund to the United States, as so directed. In addition, if the City so directs, the Trustee will deposit moneys into or transfer moneys out of the Rebate Fund from or into such accounts or funds as directed by the City's written directions; provided, however, only moneys in excess of the Rebate Requirement may be transferred out of the Rebate Fund to such other accounts or funds or to anyone other than the United States in satisfaction of the arbitrage rebate obligation. Any funds remaining in the Rebate Fund after prepayment and payment of all of the Certificates and payment and satisfaction of any Rebate Requirement, or provision made therefor satisfactory to the Trustee, shall be withdrawn and remitted to the City.

(f) Notwithstanding any other provision of this Trust Agreement, including in particular Article VII hereof, the obligation to remit the Rebate Requirement to the United States and to comply with all other requirements of this Section, Section 7.03 of the Agreement and the Tax Certificate shall survive the defeasance or payment in full of the Series C Certificates.

Section 3.06 **Deposit and Investments of Money in Accounts and Funds.** (a) All money held by the Trustee in any of the accounts or funds established pursuant hereto shall be invested in Permitted Investments at the Written Request of the Corporation (which shall be in compliance with Section 5.03 hereof) filed with the Trustee which such Permitted Investments shall, as nearly as practicable, mature on or before the dates on which such money is anticipated to be needed for disbursement hereunder, and the Trustee shall have no liability or responsibility for any loss resulting from any investment made in accordance herewith; provided, except for investment agreements approved by the Certificate Insurer, money in the Reserve Fund shall not be invested in any investment with a maturity extending beyond five years of the time of such investment. If no such Written Request of the Corporation is received by the Trustee, the Trustee shall invest such money in those Permitted Investments described in clause (D) of the definition thereof. Subject to Section 5.03 hereof, all interest or profits received on any money so invested shall be deposited in the Debt Service Fund.

(b) The Corporation (and the City by its execution of the Agreement) acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Corporation or the City the right to receive brokerage confirmations of security transactions as they occur, the Corporation and the City specifically waive receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Corporation and the City monthly cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

(c) The Trustee or any of its affiliates may act as principal or agent, sponsor, advisor, principal, agent or manager in connection with any investments made by the Trustee hereunder. For investment purposes only, the Trustee may commingle the funds and accounts established hereunder, but shall maintain separate records relating to the investments for fund or account.

(d) The Trustee shall not be liable for any loss from any Permitted Investments acquired, held or disposed of in compliance with the Section 3.06.

Section 3.07 Reliance in Opinions. The Trustee may, in performing the obligations set out in Section 3.06(a) above, rely and shall be protected in acting or refraining from acting upon an Opinion of Counsel furnished by the City.

ARTICLE IV

ASSIGNMENT TO TRUSTEE

Section 4.01 **Assignment to Trustee; Enforcement of Obligations.** The Corporation hereby transfers, assigns and sets over to the Trustee all of the Installment Payments and any and

all rights and privileges it has under the Agreement (other than its rights to indemnification pursuant to Section 10.12 of the Agreement), including, without limitation, the right to collect and receive directly all of the Installment Payments and the right to enforce the provisions of the Agreement; and any Installment Payments collected or received by the Corporation shall be deemed to be held, and to have been collected or received, by the Corporation as the agent of the Trustee, and shall forthwith be paid by the Corporation to the Trustee. The Trustee also shall, subject to the provisions of this Trust Agreement, take all steps, actions and proceedings required to be taken as provided in any opinion of counsel delivered to it, reasonably necessary to maintain in force for the benefit of the Owners of the Certificates the Trustee's rights in and priority to the following security granted to it for the payment of the Certificates: the Trustee's rights as assignee of the Installment Payments under the Agreement and as beneficiary of any other rights to security for the Certificates which the Trustee may receive in the future.

~~Section 4.02 **Reliance in Opinions.** The Trustee may, in performing the obligations set out in Section 3.07(a) above, rely and shall be protected in acting or refraining from acting upon an Opinion of Counsel furnished by the City.~~

ARTICLE V

COVENANTS OF THE CORPORATION AND THE TRUSTEE

Section 5.01 **Compliance with Trust Agreement.** The Trustee will not execute or deliver any Certificates in any manner other than in accordance with the provisions hereby; and the Corporation will not suffer or permit any default by it to occur hereunder, but will faithfully comply with, keep, observe and perform all the agreements and covenants to be observed or performed by it contained herein and in the Certificates.

Section 5.02 **Observance of Laws and Regulations.** The Corporation and the Trustee will faithfully comply with, keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on them by contract, or prescribed by any law of the United States of America or of the State of California, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of each and every franchise, right or privilege now owned or hereafter acquired by them, including their right to exist and carry on their respective businesses, to the end that such franchises, rights and privileges shall be maintained and preserved and shall not become abandoned, forfeited or in any manner impaired.

Section 5.03 **Tax Covenants.**

(a) The Corporation hereby covenants with the Owners of the Certificates that, notwithstanding any other provisions of this Trust Agreement, it shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the Tax-exempt status of interest on the Series C Certificates under Section 103 of the Code. The Corporation shall not, directly or indirectly, use or permit the use of proceeds of the Certificates or any of the property financed or refinanced with proceeds of the Certificates, or any portion

thereof, by any person other than a governmental unit (as such term is used in Section 141 of the Code), in such manner or to such extent as would adversely affect the Tax-exempt status of interest on the Series C Certificates.

(b) The Corporation shall not take any action, or fail to take any action, if any such action or failure to take action would cause the Series C Certificates to be "private activity bonds" within the meaning of Section 141 of the Code, and in furtherance thereof, shall not make any use of the proceeds of the Series C Certificates or any of the property financed or refinanced with proceeds of the Series C Certificates, or any portion thereof, or any other funds of the Corporation, that would cause the Series C Certificates to be "private activity bonds" within the meaning of Section 141 of the Code. To that end, so long as any Series C Certificates are Outstanding, the Corporation, with respect to such proceeds and property and such other funds, will comply with applicable requirements of the Code and all regulations of the United States Department of the Treasury issued thereunder, to the extent such requirements are, at the time, applicable and in effect. The Corporation shall establish reasonable procedures necessary to ensure continued compliance with Section 141 of the Code and the continued qualification of the Certificates as "governmental bonds."

(c) The Corporation shall not, directly or indirectly, use or permit the use of any proceeds of any Series C Certificates, or of any property financed or refinanced thereby, or other funds of the Corporation, or take or omit to take any action, that would cause the Certificates to be "arbitrage bonds" within the meaning of Section 148 of the Code. To that end, the Corporation shall comply with all requirements of Section 148 of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, in effect and applicable to the Certificates.

(d) The Corporation shall not make any use of the proceeds of the Series C Certificates or any other funds of the Corporation, or take or omit to take any other action, that would cause the Certificates to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(e) In furtherance of the foregoing tax covenants, the Corporation covenants that it will comply with the provisions of the Tax Certificate, which is incorporated herein as if fully set forth herein. These covenants shall survive payment in full or defeasance of the Certificates.

Section 5.04 **Accounting Records and Reports.** The Trustee will keep or cause to be kept proper books of record and accounts in which complete and correct entries shall be made of all transactions made by the Trustee relating to the receipts, disbursements, allocation and application of the Installment Payments and the proceeds of the Certificates, and such books shall be available for inspection by the Corporation, at reasonable hours and under reasonable conditions. Not more than 180 days after the close of each Fiscal Year, the Trustee shall furnish or cause to be furnished to the Corporation a complete financial statement covering receipts, disbursements, allocation and application of Installment Payments received by the Trustee for such Fiscal Year. The Corporation shall keep or cause to be kept such information as required under the Tax Certificate.

Section 5.05 **Prosecution and Defense of Suits.** The Corporation will defend against every suit, action or proceeding at any time brought against the Trustee upon any claim to the extent arising out of the receipt, application or disbursement of any of the Installment Payments and the proceeds of the Certificates or to the extent involving the failure of the Corporation to fulfill its obligations hereunder; provided that the Trustee or any affected Owner at its election may appear in and defend any such suit, action or proceeding. The Corporation will indemnify and hold harmless the Trustee against any and all liability claimed or asserted by any person to the extent arising out of such failure by the Corporation, and will indemnify and hold harmless the Trustee against any attorney's fees or other expenses which it may incur in connection with any litigation to which it may become a party by reason of its actions hereunder, except for any loss, cost, damage or expense resulting from the active or passive negligence, willful misconduct or breach of duty by the Trustee. Notwithstanding any contrary provision hereof, this covenant shall remain in full force and effect even though all Certificates secured hereby may have been fully paid and satisfied.

Section 5.06 **Amendments to Agreement.** The Corporation shall not supplement, amend, modify or terminate any of the terms of the Agreement, or consent to any such supplement, amendment, modification or termination, without the prior written consent of the Certificate Insurer (if the Certificate Insurer is not in default under a Certificate Insurance Policy) and the Trustee, which such consent of the Trustee shall be given only if (a) such supplement, amendment, modification or termination will not materially adversely affect the interests of the Owners or result in any material impairment of the security hereby given for the payment of the Certificates, or (b) if the Certificate Insurer is in default under a Certificate Insurance Policy, the Trustee first obtains the written consent of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding to such supplement, amendment, modification or termination; provided, however, that no such supplement, amendment, modification or termination shall reduce the amount of Installment Payments to be made by the City pursuant to the Agreement, or extend the time for making such Installment Payments in any manner that would require the consent of Certificate Owners pursuant to Section 7.01(b) hereof in any manner not in compliance with Section 7.01 hereof.

Section 5.07 **Recording and Filing.** The Trustee upon receipt of a Written Request of the Corporation shall, at the expense of the Corporation, file, record, register, renew, refile and rerecord all such documents, including financing statements (or continuation statements in connection therewith), all in such manner, at such times and in such places as may be required and to the extent permitted by law in order to fully perfect, preserve and protect the security of the Owners and the rights and interests of the Trustee; provided, however, that the Trustee will not be required to execute a special or general consent to service of process, or to qualify as a foreign corporation in connection with any such filing, recording, registration, refile or rerecording in any jurisdiction in which it is not now so subject.

Section 5.08 **Further Assurances.** Whenever and so often as reasonably requested to do so by the Trustee or any Owner, the Corporation will promptly execute and deliver or cause to be executed and delivered all such other and further assurances, documents or instruments, and promptly do or cause to be done all such other and further things as may be necessary or reasonably required in order to further and more fully vest in the Trustee and the Owners all

rights, interests, powers, benefits, privileges and advantages conferred or intended to be conferred upon them hereby.

ARTICLE VI

THE TRUSTEE

Section 6.01 The Trustee.

(a) BNY Western Trust Company, as the Trustee, shall receive all money which the Corporation is required to deposit with the Trustee hereunder and for the purpose of allocating, applying and using such money as provided herein and for the purpose of paying the interest and principal and prepayment premiums, if any, evidenced by the Certificates presented for payment and for the purpose of canceling all paid or prepaid Certificates as provided herein. The Corporation agrees that it will at all times maintain a Trustee having a corporate trust office in either San Francisco, California or Los Angeles, California.

(b) The Corporation may at any time (unless there exists any Event of Default as defined in Section 8.01 hereof), and upon written direction from the Certificate Insurer shall, remove the Trustee initially appointed and any successor thereto and may appoint a successor or successors thereto by an instrument in writing; provided that any such successor shall be a banking corporation or trust company doing business and having a principal office in either San Francisco, California or Los Angeles, California, having a combined capital (exclusive of borrowed capital) and surplus of at least seventy-five million dollars (\$75,000,000) and subject to supervision or examination by federal or state Corporation, acceptable to the Certificate Insurer. If such banking corporation or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining Corporation above referred to, then for the purpose of this Section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Trustee may at any time resign by giving written notice of such resignation to the Corporation and the Certificate Insurer and by mailing to the Owners notice of such resignation. Upon receiving such notice of resignation, the Corporation shall promptly appoint a successor Trustee by an instrument in writing. Any removal or resignation of a Trustee and appointment of a successor Trustee shall become effective only upon the acceptance of appointment by the successor Trustee. If, within thirty (30) days after notice of the removal or resignation of the Trustee no successor Trustee shall have been appointed and shall have accepted such appointment, the removed or resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Trustee having the qualifications required hereby.

(c) The Trustee shall, prior to an Event of Default, and after the curing of all Events of Default that may have occurred, perform such duties and only such duties as are specifically set forth in the Trust Agreement and no implied duties or obligations shall be read into this Trust Agreement. The Trustee shall, during the existence of any Event of Default (that has not been cured), exercise such of the rights and powers vested in it hereby, and use the same

degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

Section 6.02 Liability of Trustee.

(a) The recitals of facts, agreements and covenants herein and in the Certificates shall be taken as recitals of facts, agreements and covenants of the Corporation, and the Trustee assumes no responsibility for the correctness of the same or makes any representation as to the sufficiency or validity hereof or of the Certificates, or shall incur any responsibility in respect thereof other than in connection with the rights or obligations assigned to or imposed upon it herein, in the Certificates or in law or equity. The Trustee shall not be liable in connection with the performance of its duties hereunder except for its own active or passive negligence, willful misconduct or breach of duty.

(b) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(c) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of not less than a majority in aggregate principal amount of the Certificates at the time Outstanding, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee hereunder.

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it hereby at the request, order or direction of any of the Owners pursuant to the provisions hereof unless such Owners shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that may be incurred therein or thereby. The Trustee has no obligation or liability to the Owners for the payment of interest, principal or prepayment premium, if any, evidenced by the Certificates from its own funds; but rather the Trustee's obligations shall be limited to the performance of its duties hereunder.

(e) The Trustee shall not be deemed to have knowledge of any default hereunder or default under the Agreement unless and until it shall have actual knowledge thereof or shall have received written notice thereof at its Corporate Trust Office. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Certificates or as to the existence of a default hereunder.

(f) The Trustee shall be entitled to advice of counsel and other professionals concerning all matters of trust and its duty hereunder, but the Trustee shall not be answerable for the professional malpractice of any attorney-at-law or certified public accountant in connection with the rendering of his professional advice in accordance with the terms hereof, if such attorney-at-law or certified public accountant was selected by the Trustee with due care.

(g) The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

(h) Whether or not therein expressly so provided, every provision hereof or of the Agreement or any related documents relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this article.

~~(i) The Trustee makes no representation or warranty, express or implied, as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose for the use contemplated by the Corporation or City of the Projects. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Agreement or this Trust Agreement for the existence, furnishing or use of the Projects.~~

(i) ~~(j)~~ The Trustee shall be protected in acting upon any notice, requisition, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel of or to the Corporation, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

(j) ~~(k)~~ Whenever in the administration of its rights and obligations hereunder the Trustee shall deem it necessary or desirable that a matter be established or proved prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by a Certificate of the Corporation, which certificate shall be full warrant to the Trustee for any action taken or suffered under the provisions hereof upon the faith thereof, but in its discretion the Trustee may in lieu thereof accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

(k) ~~(l)~~ No provision of this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of its rights or powers.

(l) ~~(m)~~ The Trustee shall have no responsibility, opinion or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the execution and delivery of the Certificates.

(m) ~~(n)~~ All immunities, indemnifications and releases from liability granted herein to the Trustee shall extend to the directors, employees, officers and agents thereof.

(n) ~~(o)~~ Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, so long as such company shall meet

the requirements set forth in Section 6.01, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

(o) ~~(p)~~ The Trustee may become the owner or pledgee of any Certificates with the same rights it would have if it were not Trustee.

Section 6.03 Compensation and Indemnification of Trustee. The Corporation covenants to pay to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation for all services rendered by it in the exercise and performance of any of the powers and duties hereunder of the Trustee, and the Corporation will pay or reimburse the Trustee upon its request for all expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence, default or willful misconduct. The Corporation, to the extent permitted by law, shall indemnify, defend and hold harmless the Trustee against any loss, damages, liability or expense incurred without negligence, default or willful misconduct on the part of the Trustee arising out of or in connection with (i) the acceptance or administration of the trusts created hereby, or the exercise or performance of any of its powers or duties hereunder, or (ii) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading in any official statement or other offering circular utilized in connection with the sale of any of the Certificates, including costs and expenses (including attorneys' fees) of defending itself against any claim or liability in connection with the exercise or performance of any of its powers hereunder. The rights of the Trustee and the obligations of the Corporation under this section shall survive the discharge of the Certificates and the Trust Agreement and the resignation or removal of the Trustee.

Section 6.04 Paying Agent. The Trustee, with the written approval of the City, may appoint and have a Paying Agent in such cities as the Trustee deems desirable, for the payment of the principal of and interest (and premium, if any) on, the Certificates. It shall be the duty of the Trustee to make such credit arrangements with such Paying Agent as may be necessary to assure, to the extent of the moneys held by the Trustee for such payment, the prompt payment of the principal of, and interest (and premium, if any) on, the Certificates presented at either place of payment. The Trustee will not be responsible for the failure of any party to make funds available to the Trustee or Paying Agent. The Trustee is the initial Paying Agent.

Section 6.05 Notices to Rating Agencies. The Trustee shall provide the Rating Agencies, with copies to the City and the Certificate Insurer, with written notice upon the occurrence of: (i) the discharge of liability on any Certificates pursuant to Section 10.02; (ii) the resignation or removal of the Trustee; (iii) acceptance of appointment as successor trustee hereunder; (iv) the prepayment or purchase of all Certificates; or (v) a material change in the Trust Agreement or the Agreement, upon its receipt of written notice of any such changes. The Trustee shall also notify any Rating Agency of any material changes to any of the documents to which the Trustee is a party, upon its receipt of written notification of any such changes.

ARTICLE VII

AMENDMENT OF THE TRUST AGREEMENT

Section 7.01 **Amendment of the Trust Agreement.** (a) Except as provided in subsection (b) and (c) of this Section 7.01, the Trust Agreement and the rights and obligations of the Corporation and of the Owners may be amended at any time by a Supplemental Trust Agreement which shall become binding when the written consents of the Certificate Insurer or, if the Certificate Insurer is in default under a Certificate Insurance Policy, the written consents of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 7.02 hereof, are filed with the Trustee; provided, that before executing any such Supplemental Trust Agreement the Trustee may first obtain at the Corporation's expense an Opinion of Counsel that such Supplemental Trust Agreement complies with the provisions of the Trust Agreement, on which opinion the Trustee may conclusively rely.

(b) No amendment to the Agreement or this Trust Agreement shall (1) extend the Certificate Payment Date of, or change the payment dates of, or reduce the rate of interest or Principal Installments, Interest Installments or prepayment premium, if any, evidenced by any Certificate without the express written consent of the Owner of such Certificate, or (2) reduce the percentage of Certificates required for the written consent to any such amendment, or (3) modify any rights or obligations of the Trustee without its prior written assent thereto. Copies of any amendments made to the Trust Agreement which are consented to by the Certificate Insurer shall be sent to S&P.

(c) The Trust Agreement and the rights and obligations of the Corporation and of the Owners may also be amended at any time by a Supplemental Trust Agreement which shall become binding upon adoption without the consent of any Owners, but with the prior written consent of the Certificate Insurer and only to the extent permitted by law, for any purpose that will not materially adversely affect the interests of the Owners, including (without limitation) for any one or more of the following purposes:

(i) to add to the agreements and covenants required herein to be performed by the Corporation other agreements and covenants thereafter to be performed by the Corporation, or to surrender any right or power reserved herein to or conferred herein on the Corporation;

(ii) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained herein or in regard to questions arising hereunder which the Corporation may deem desirable or necessary and not inconsistent herewith;

(iii) to add to the agreements and covenants required herein, such agreements and covenants as may be necessary to qualify the Trust Agreement under the Trust Indenture Act of 1939;

(iv) to make any amendments or supplements necessary or appropriate to preserve or protect the exclusion of interest evidenced by the Series C Certificates from gross income for federal income tax purposes under the Code or the exemption of the Interest Installments from State of California personal income taxes;

(v) to make such amendments or supplements as may be necessary or appropriate to maintain any then current rating on the Certificates by any of the Rating Agencies; or

(vi) to add to the rights of the Trustee.

Section 7.02 **Disqualified Certificates.** Certificates owned or held by or for the account of the Corporation or the City shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Certificates provided in this article, and shall not be entitled to consent to or take any other action provided in this article. Upon the request of the Trustee, the Corporation shall specify to the Trustee those Certificates disqualified pursuant to this Section.

Section 7.03 **Endorsement or Replacement of Certificates After Amendment.** After the effective date of any action taken as hereinabove provided, the Corporation may determine that the Certificates may bear a notation by endorsement in form approved by the Corporation as to such action, and in that case upon demand of the Owner of any Outstanding Certificates and presentation of such Owner's Certificate for such purpose at the Corporate Trust Office of the Trustee a suitable notation as to such action shall be made on such Certificate. If the Corporation shall so determine, new Certificates so modified as, in the opinion of the Corporation, shall be necessary to conform to such action shall be prepared and executed, and in that case upon demand of the Owner of any Outstanding Certificate a new Certificate or Certificates shall be exchanged at the Corporate Trust Office of the Trustee without cost to each Owner for its Certificate or Certificates then Outstanding upon surrender of such Outstanding Certificates.

Section 7.04 **Amendment by Mutual Consent.** The provisions of this article shall not prevent any Owner from accepting any amendment as to the particular Certificates held by him, provided that due notation thereof is made on such Certificates.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF OWNERS

Section 8.01 **Events of Default; Acceleration; Waiver of Default.** The following shall be Events of Default hereunder: (i) an **Agreement** Event of Default (as that term is defined in the Agreement) shall happen, and be continuing or (ii) the Corporation shall default in the observance of any of the covenants, agreements or conditions on its part contained in this Trust Agreement or in the Agreement, if such default shall have continued for a period of sixty (60) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the City and the Corporation by the Trustee, or to the City, the Corporation and the Trustee by the ~~Holders~~**Owners** of not less than twenty-five per cent (25%) in aggregate principal amount of the Certificates at the time Outstanding.

Section 8.02 **Remedies.** If an Event of Default shall happen and be continuing hereunder Trustee shall have the right:

(a) ~~with respect to an Event of Default under the Agreement,~~ the Trustee or the Owners of not less than a majority in aggregate principal amount of the Certificates then Outstanding may exercise the remedies provided to the Corporation in the Agreement; provided, that nothing contained herein shall affect or impact the right of action of any Owner to institute suit directly against the City to enforce payment of the obligation evidenced by such Owner's Certificates;

(b) by mandamus or other action or proceeding or suit at law or in equity to enforce the Corporation's rights under the Agreement against the City or any officer or employee thereof, and to compel the City or any such officer or employee or the Corporation, as applicable, to perform or carry out its or his duties under law and the agreements and covenants required to be performed by it or him contained in the Agreement or this Trust Agreement;

(c) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Trustee; or

(d) by suit in equity upon the happening of any Event of Default hereunder to enforce the Corporation's rights under the Agreement and the Trustee's rights under this Trust Agreement and to require the City and its officers and employees and the Corporation to account as the trustee of an express trust.

Section 8.03 **Non-Waiver.** A waiver of any default or breach of any duty or contract by the Trustee shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Trustee to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or any acquiescence therein, and every right or remedy conferred upon the Trustee by law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee.

If any action, proceeding or suit to enforce any right or to exercise any remedy is abandoned or determined adversely to the Trustee, the Trustee, and the City shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 8.04 **Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Trustee or the Owners is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by law.

Section 8.05 **No Liability by the City to the Owners.** Except for the payment when due of the Installment Payments and the performance of the other agreements and covenants required to be performed by it contained in the Agreement, the City shall not have any obligation or liability to the Owners with respect to the Trust Agreement or the preparation, execution,

delivery or transfer of the Certificates or the disbursement of the Installment Payments by the Trustee to the Owners, or with respect to the performance by the Trustee of any right or obligation required to be performed by it contained herein.

Section 8.06 **No Liability by the Trustee to the Owners.** Except as expressly provided herein, the Trustee shall not have any obligation or liability to the Owners with respect to the payment when due of the Installment Payments by the City, or with respect to the performance by the City of the other agreements and covenants required to be performed by its contained in the Agreement.

ARTICLE IX

DEFEASANCE

Section 9.01 **Discharge of Trust Agreement.** When the obligations of the City under the Agreement shall cease pursuant to Article IX of the Agreement (except for the right of the Trustee and the obligation of the City to have the money and securities mentioned therein applied to the payment of Installment Payments as therein set forth), then and in that case the obligations created by this Trust Agreement shall thereupon cease, determine and become void except for the right of the Owners and the obligation of the Trustee to apply such moneys and securities to the payment of the Certificates as herein set forth and the right of the Trustee to collect any fees or expenses due hereunder and the Trustee shall turn over to the City, as an overpayment of Installment Payments, all balances remaining in any of the funds or accounts held hereunder other than the Rebate Fund and moneys and Defeasance Securities held for the payment of the Certificates at maturity or on prepayment, which moneys and Defeasance Securities shall continue to be held by the Trustee in trust for the benefit of the Owners and shall be applied by the Trustee to the payment, when due, of the Principal Installments and Interest Installments and premium, if any, evidenced by the Certificates, and after such payment, this Trust Agreement shall become void.

Upon receipt of a Request of the City, the Trustee shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the City and shall execute and deliver to the City all such instruments as may be necessary or desirable to evidence the discharge and satisfaction of the Agreement and this Trust Agreement.

If moneys or securities are deposited with and held by the Trustee as hereinabove provided, the Trustee shall mail a notice, first-class postage prepaid, to the Owners at the addresses listed on the registration books kept by the Trustee pursuant to Section 2.16 hereof, stating that (a) moneys or Defeasance Securities are so held by it, and (b) that this Trust Agreement has been released in accordance with the provisions of this Section.

Section 9.02 **Payments by Certificate Insurer.** Notwithstanding anything contained in this Trust Agreement to the contrary, in the event that the Interest Installments and/or the Principal Installments evidenced by any of the Certificates shall be paid by the Certificate Insurer pursuant to a Certificate Insurance Policy, such Certificates shall remain Outstanding hereunder for all purposes, shall not be defeased or otherwise satisfied and shall not be considered paid, and the assignment and pledge hereof and all agreements, covenants and other obligations of the City

under the Agreement assigned to the Trustee for the benefit of the Owners of the Certificates shall continue to exist and shall run to the benefit of the Certificate Insurer, and the Certificate Insurer shall be subrogated to the rights of such Owners.

ARTICLE X

PROVISIONS RELATING TO CERTIFICATE INSURANCE POLICIES

Section 10.01 Series C Insurance Policy and Series D Insurance Policy. Notwithstanding anything to the contrary contained herein, any amount drawn under the Series C Insurance Policy will be available only for payment of Series C Installment Payments evidenced by the Series C Certificates pursuant to the provisions of this Article X and any amount drawn under the Series D Insurance Policy will be available only the for payment of Series D Installment Payments evidenced by the Series D Certificates pursuant to the provisions of this Article X.

Section 10.02 Payment Procedure Under the Certificate Insurance Policies.

(a) In the event that, on the second Business Day, and again on the Business Day, prior to the Payment Date, the Trustee has not received sufficient moneys to pay all amounts due with respect to the Certificates relating to Series C Installment Payments or Series D Installment Payments due on the second following or following, as the case may be, Business Day, the Trustee shall immediately notify the Certificate Insurer or its designee on the same Business Day by telephone or telegraph, confirmed in writing by registered or certified mail, of the amount of the deficiency.

(b) If the deficiency is made up in whole or in part prior to or on the payment date, the Trustee shall so notify the Certificate Insurer or its designee.

(c) In addition, if the Trustee has notice that any Owner has been required to disgorge Series C Installment Payments evidenced by the Series C Certificates or Series D Installment Payments evidenced by the Series D Certificates to a trustee in bankruptcy or creditors or others pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such Owner within the meaning of any applicable bankruptcy laws, then the Trustee shall notify the Certificate Insurer or its designee of such fact by telephone or telegraphic notice, confirmed in writing by registered or certified mail.

Section 10.03 Trustee as Attorney-In-Fact. The Trustee is hereby irrevocably designated, appointed, directed and authorized to act as an attorney-in-fact for Owners of the Certificates as follows:

(a) if and to the extent the Trustee has not received sufficient moneys to pay the Interest Installments evidenced by the Series C Certificates, the Trustee shall (i) execute and deliver to State Street Bank and Trust Company, N.A., or its successors under the applicable Certificate Insurance Policy (the "Insurance Paying Agent"), in form satisfactory to the Insurance Paying Agent, an instrument appointing the Certificate Insurer as agent for such Owners in any legal proceeding related to the payment of such interest and an assignment to the Certificate Insurer of the claims for interest to which such deficiency relates and which are paid

by the Certificate Insurer, (ii) receive as designee of the respective Owners (and not as Trustee) in accordance with the tenor of the applicable Certificate Insurance Policy payment from the Insurance Paying Agent with respect to the claims for interest so assigned, and (iii) disburse the same to such respective Owners; and

(b) if and to the extent the Trustee has not received sufficient moneys to pay the Principal Installments evidenced by the Series C Certificates or the Series D Certificates, the Trustee shall (i) execute and deliver to the Insurance Paying Agent in form satisfactory to the Insurance Paying Agent an instrument appointing the Certificate Insurer as agent for such Owner in any legal proceeding relating to the payment of such Principal Installment and an assignment to the Certificate Insurer of any of the Certificates surrendered to the Insurance Paying Agent of so much of the Principal Installment thereof as has not previously been paid or for which moneys are not held by the Trustee and available for such payment (but such assignment shall be delivered only if payment from the Insurance Paying Agent is received), (ii) receive as designee of the respective Owners (and not as Trustee) in accordance with the tenor of the applicable Insurance Policy payment therefor from the Insurance Paying Agent, and (iii) disburse the same to such Owners.

Section 10.04 **No Discharge.**

(a) Installment Payments with respect to claims for Series C Installment Payments evidenced by the Series C Certificates or Series D Installment Payments evidenced by the Series D Certificates disbursed by the Trustee from proceeds of the applicable Certificate Insurance Policy shall not be considered to discharge the obligation of the City with respect to such Series C Installment Payments or Series D Installment Payments evidenced by the Certificates, and the Certificate Insurer shall become the owner of such unpaid Certificates and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of this Article or otherwise.

(b) Irrespective of whether any such assignment is executed and delivered, the Corporation and the Trustee hereby agree for the benefit of the Certificate Insurer that: (i) they recognize that to the extent the Certificate Insurer makes payments, directly or indirectly (as by paying through the Trustee), on account of Series C Installment Payments evidenced by the Series C Certificates or Series D Installment Payments evidenced by the Series D Certificates, the Certificate Insurer will be subrogated to the rights of such Owners to receive the amount of such Series C Installment Payments evidenced by the Series C Certificates or Series D Installment Payments evidenced by the Series D Certificates from the City, with interest thereon as provided and solely from the sources stated in the Agreement and such Certificates; and (ii) they will accordingly pay to the Certificate Insurer the amount of Series C Installment Payments or Series D Installment Payments (including principal and interest recovered under subparagraph (ii) of the first paragraph of the applicable Certificate Insurance Policy, which principal and interest shall be deemed past due and not to have been paid), with interest thereon as provided in the Agreement and such Certificates, but only from the sources and in the manner provided in the Agreement for the payment of Principal Installments and Interest Installments with respect to such Certificates to Owners, and will otherwise treat the Certificate Insurer as the owner of such rights to the amount of such principal and interest.

Section 10.05 **Rights of Certificate Insurer.** Notwithstanding anything to the contrary contained herein, so long as the Certificate Insurer is not in default under a Certificate Insurance Policy, (a) the Certificate Insurer, acting alone, shall have the right to direct all remedies upon the occurrence and during the continuance of an Event of Default, (b) the Certificate Insurer shall be deemed to be the Owner of each Certificate it insures for the purpose of exercising all rights and privileges available to such Owners, (c) the Certificate Insurer shall have the right to institute any suit, action or proceeding at law or in equity under the same terms as an Owner in accordance with the applicable provisions of this Trust Agreement and (d) except for a prepayment pursuant to the terms of Section 2.07 or 2.08 of this Trust Agreement, there shall be no acceleration in the payment of principal with respect to the Certificates without the prior written consent of the Certificate Insurer.

Section 10.06 **Notices.** The Certificate Insurer shall receive copies of all notices required to be delivered to Owners or to the Trustee and, on an annual basis, copies of the City's audited financial statements and annual budget, if any. The Certificate Insurer shall receive notice of the resignation or removal of the Trustee and the appointment of a successor thereto. The Certificate Insurer shall also receive notices of any amendment to the Trust Agreement which does not require its prior consent. Copies of any amendments made to the Trust Agreement which are consented to by the Certificate Insurer, the defeasance of Certificates pursuant to Article X, and any acceleration of the maturity of the Principal Installments pursuant to Section 8.01 of the Agreement shall be sent to S&P.

ARTICLE XI

MISCELLANEOUS

Section 11.01 **Benefits of this Trust Agreement.** Nothing contained herein, expressed or implied, is intended to give to any person other than the Corporation, the Trustee, the City, the Certificate Insurer, the issuer of each Financial Guaranty and the Owners any right, remedy or claim under or by reason hereof. Any agreement or covenant required herein to be performed by or on behalf of the Corporation or any member, officer or employee thereof shall be for the sole and exclusive benefit of the Trustee, the City, the Certificate Insurer, the issuer of each Financial Guaranty and the Owners.

Section 11.02 **Provisions to Pay Financial Guaranty Issuer(s).** Notwithstanding anything to the contrary herein, this Trust Agreement may not be terminated unless provisions have been made to pay all amounts owed to the issuer of each Financial Guaranty then in effect under the terms of each such Financial Guaranty.

Section 11.03 **Successor Is Deemed Included In All References To Predecessor.** Whenever herein either the Corporation or any member, officer or employee thereof is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the Corporation or such member, officer or employee, and all agreements and covenants required hereby to be performed by or on behalf of the Corporation or any member, officer or employee thereof shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

Section 11.04 **Execution of Documents by Owners.** Any declaration, request or other instrument which is permitted or required herein to be executed by Owners may be in one or more instruments of similar tenor and may be executed by Owners in person or by their attorneys appointed in writing. The fact and date of the execution by any Owner or his attorney of any declaration, request or other instrument or of any writing appointing such attorney may be proved by the certificate of any notary public or other officer authorized to make acknowledgments of deeds to be recorded in the state or territory in which he purports to act that the person signing such declaration, request or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly-sworn to before such notary public or other officer. The ownership of any Certificates and the amount, Certificate Payment Date, number and date of holding the same may be proved by the Certificate Register.

Any declaration, request or other instrument or writing of the Owner of any Certificate shall bind all future Owners of such Certificate with respect to anything done or suffered to be done by the Corporation or the Trustee in good faith and in accordance therewith.

Section 11.05 **Waiver of Personal Liability.** No member, officer or employee of the Corporation shall be individually or personally liable for the payment of the Interest Installments or Principal Installments or prepayment premiums, if any, evidenced by the Certificates by reason of their delivery, but nothing herein contained shall relieve any such member, officer or employee from the performance of any official duty provided by applicable provisions of law or hereby.

Section 11.06 **Content of Certificates.** Every Certificate of the Corporation with respect to compliance with any agreement, condition, covenant or provision provided herein shall include (a) a statement that the person or persons making or giving such certificate have read such agreement, condition, covenant or provision and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements contained in such certificate are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such agreement, condition, covenant or provision has been complied with; and (d) a statement as to whether, in the opinion of the signers, such agreement, condition, covenant or provision has been complied with.

Any Certificate of the Corporation may be based, insofar as it relates to legal matters, upon an Opinion of Counsel unless the person making or giving such certificate knows that the Opinion of Counsel with respect to the matters upon which his certificate may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous. Any Opinion of Counsel may be based, insofar as it relates to factual matters or information with respect to which is in the possession of the Corporation, upon a representation by an officer or officers of the Corporation unless the counsel executing such Opinion of Counsel knows that the representation with respect to the matters upon which his opinion may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous.

Section 11.07 **Accounts and Funds; Business Days.** Any account or fund required herein to be established and maintained by the Trustee may be established and maintained in the

accounting records of the Trustee either as an account or a fund, and may, for the purposes of such accounting records, any audits thereof and any reports or statements with respect thereto, be treated either as an account or a fund; but all such records with respect to all such accounts and funds shall at all times be maintained in accordance with this Trust Agreement and sound corporate trust industry practice and with due regard for the protection of the security of the Certificates and the rights of the Owners. Any action required to occur hereunder on a day which is not a Business Day shall be required to occur on the next succeeding Business Day with the same effect as if made on such non-Business Day.

Section 11.08 **Notices.** Unless otherwise provided herein, all notices, certificates or other communications hereunder shall be deemed sufficiently given upon actual receipt thereof when received by the City, the Corporation, the Trustee, the Certificate Insurer and the Rating Agencies, as the case may be, at the respective address provided pursuant to this Section or, if mailed by first class mail, postage prepaid, addressed to the appropriate address provided pursuant to this Section, six Business Days after deposit in the United States mail, the initial address for notices, counterparts and other communications hereunder is as follows:

If to the Corporation:	Lodi Public Improvement Corporation c/o City of Lodi 221 West Pine Street Lodi, California 95241-1910 Attention: City Clerk
If to the City:	City of Lodi 221 West Pine Street Lodi, California 95241-1910 Attention: City Manager
If to the Trustee:	BNY Western Trust Company 550 Kearny St., Suite 600 San Francisco, California 94108 Attention: Corporate Trust Administration
If to the Certificate Insurer:	MBIA Insurance Corporation 113 King Street Armonk, New York 10504 Attention: Surveillance
If to S&P, to:	Standard & Poor's Ratings Services 55 Water Street, 38th Floor New York, New York 10041 Attention: Municipal Structured Group Facsimile: (212) 438-2152 Telephone: (212) 438-2124

If to Fitch, to:

Fitch, Inc.
650 California Street, 8th Floor
San Francisco, California 94018
Attention: U.S. Public Finance Group
Facsimile: (415) 732-5770
Telephone: (415) 732-5610

The City, the Trustee, the Corporation, the Certificate Insurer and the Rating Agencies may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Unless otherwise requested by the City, the Trustee, the Corporation, the Certificate Insurer or the Rating Agencies, any notice required to be given hereunder in writing may be given by any form of Electronic Notice capable of making a written record. Each such party shall file with the Trustee information appropriate to receiving such form of Electronic Notice.

Section 11.09 **CUSIP Numbers.** Neither the Corporation nor the Trustee shall be liable for any defect or inaccuracy in the CUSIP number that appears on any Certificate or in any prepayment notice relating thereto. The Trustee may, in its discretion, include in any prepayment notice relating to any of the Certificates a statement to the effect that the CUSIP numbers on the Certificates have been assigned by an independent service and are included in such notice solely for the convenience of the Owners and that neither the Corporation nor the Trustee shall be liable for any defects or inaccuracies in such numbers.

Section 11.10 **Partial Invalidity.** If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the Corporation or the Trustee shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or of the Certificates, and the Owners shall retain all the benefit, protection and security afforded to them under any applicable provisions of law. The Corporation and the Trustee hereby declare that they would have executed and delivered this Trust Agreement and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the execution and delivery of the Certificates pursuant hereto irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 11.11 **Compliance with Certificate Purchase AgreementContract.** The Corporation and the Trustee each covenant that they have reviewed and are familiar with the terms and conditions set forth in the Certificate Purchase AgreementContract dated _____, 2002, by and between the City and the Underwriter **Salomon Smith Barney Inc.** and each agrees to comply with the terms thereof; provided that the Trustee agrees to comply only with the terms directly applicable to it and shall have no responsibility for any covenants of any other party.

Section 11.12 **California Law.** This Trust Agreement shall be construed and governed in accordance with the laws of the State of California.

Section 11.13 **Execution in Several Counterparts.** This Trust Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Corporation and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the Lodi Public Improvement Corporation has caused this Trust Agreement to be signed in its name by its President and BNY Western Trust Company, in token of its acceptance of the trusts created hereunder, has caused this Trust Agreement to be signed by one of the officers thereunder duly authorized, all as of the day and year first above written.

LODI PUBLIC IMPROVEMENT
CORPORATION

By: _____
President

Attest:

Secretary to the Corporation

APPROVED:

Attorney for the Corporation

BNY WESTERN TRUST COMPANY,
as Trustee

By: _____
Authorized Officer

EXHIBIT A

FORM OF SERIES C CERTIFICATE

**ELECTRIC SYSTEM REVENUE
CERTIFICATE OF PARTICIPATION,
2002 Series C
Evidencing a Proportionate
Interest of the Owner Hereof in Certain
Installment Payments to be made by the
CITY OF LODI**

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Lodi or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-_____ \$ _____

Interest Rate	Certificate Payment Date	Dated Date	CUSIP
%	_____	_____	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \$ _____

THIS IS TO CERTIFY that the registered owner of this Certificate set forth above, is the owner of a proportionate interest in certain Series C Installment Payments (as that term is defined in the Trust Agreement hereinafter mentioned) under and pursuant to that certain Amended and Restated Electric Energy Purchase Agreement executed and entered into as of _____, **November 1**, 2002, by and between the City of Lodi, a municipal corporation organized and existing under and by virtue of the Constitution and laws of the State of California (the "City") and the Lodi Public Improvement Corporation, a nonprofit, public benefit corporation duly organized and existing under and by virtue of the laws of the State of California (the "Corporation") (which Amended and Restated Electric Energy Purchase Agreement is referred to herein as the "Agreement"), all of which rights to receive such Installment Payments have been assigned by the Corporation to BNY Western Trust Company, a banking corporation duly organized and existing under and by virtue of the laws of the State of California, or any other association or corporation which may at any time be substituted in place of the original trustee as provided in the Trust Agreement hereinafter mentioned (the "Trustee"). Capitalized

terms used in this Certificate not otherwise defined herein shall have the meanings given such terms in the Trust Agreement hereinafter mentioned or in the Agreement.

The registered owner of this Certificate is entitled to receive, subject to the terms of the Agreement and any right of prepayment prior thereto hereinafter provided for, on the Certificate Payment Date set forth above, upon surrender of this Certificate on such Certificate Payment Date or on the date of prepayment prior thereto at the Corporate Trust Office of the Trustee, the principal amount set forth above, representing the registered owner's proportionate share of the Series C Installment Payments constituting principal installments becoming due and payable on such Certificate Payment Date or on the date of prepayment prior thereto, and to receive Interest Installments on such principal installment at the rate per annum specified above to such Certificate Payment Date or date of prepayment prior thereto. The registered owner of this Certificate as shown in the registration books maintained by the Trustee as of the close of business on the applicable Record Date) is entitled to receive such registered owner's proportionate share of the Interest Installments evidenced by this Certificate from the Interest Payment Date next preceding the date of execution hereof by the Trustee; unless such date of execution is after a Record Date and on or before the following Interest Payment Date, in which event from such Interest Payment Date; or unless such date of execution is on or before June 15, 2002, in which event from the Dated Date specified above); provided that if at the time of execution of this Certificate, interest evidenced by the Certificates is then in default, interest shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Certificates. Interest evidenced by this Certificate due on or before the Certificate Payment Date or prior prepayment of this Certificate shall be payable in lawful money of the United States of America, by check mailed on such Interest Payment Date by first-class mail to the registered owner hereof; provided, that if the registered owner hereof shall be the owner of one million dollars (\$1,000,000) or more in aggregate principal amount of Certificates, upon the written request of the registered owner hereof received by the Trustee prior to the applicable Record Date (which such request shall remain in effect until rescinded in writing by such registered owner), interest shall be paid by wire transfer in immediately available funds.

Interest with respect to the Series C Certificates will be paid on each Interest Payment Date provided that if any Interest Payment Date is not a Business Day, such interest shall be mailed or wired as provided above on the next succeeding Business Day and no interest shall accrue from the date when due. Interest Payment Date means, with respect to the Series C Certificates, each January 1 and July 1, commencing _____. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The principal evidenced hereby is payable in lawful money of the United States of America at the Corporate Trust Office of the Trustee.

This Certificate is one of the duly authorized series of certificates of participation designated "Electric System Revenue Certificates of Participation 2002 Series C" (the "Series C Certificates") aggregating _____ dollars (\$_____) in principal amount, which have been executed by the Trustee under and pursuant to the provisions of a Trust Agreement, dated as of _____, 2002 (the "Trust Agreement") between the Corporation and the Trustee. The Trust Agreement authorizes a second series of certificates of participation designated as "Electric System Revenue Certificates of Participation 2002 Taxable Series C" which evidence interests in the Series C Installment Payments to be made by the City

under the Agreement. The Series C Certificates and the Series C Certificates are collectively referred to herein as the "Certificates." Copies of the Trust Agreement are on file at the Corporate Trust Office of the Trustee and reference is hereby made to the Trust Agreement and to any and all amendments thereof and supplements thereto for a description of the agreements, conditions, covenants and terms of the Certificates, for the nature, extent and manner of enforcement of such agreements, conditions, covenants and terms, for the rights and remedies of the registered owners of the Certificates with respect thereto and for the other agreements, conditions, covenants and terms upon which the Certificates are executed and delivered thereunder.

In the Agreement, the City has certified that all acts, conditions and things required by the Constitution and statutes of the State of California, to have been performed, to have happened and to exist precedent to and in connection with the execution and delivery of the Agreement, have been performed, have happened and do exist in regular and due time, form and manner as required by law.

Mandatory Prepayment. The Series C Certificates with a Certificate Payment Date of _____ are subject to mandatory prepayment prior to their Certificate Payment Date, in part, on _____ and on each July 1 thereafter in a principal amount equal to the Principal Installments of the Series C Installment Payments due pursuant to the Agreement on such date at a prepayment price equal to the principal amount of the Series C Certificates to be prepaid plus accrued but unpaid interest thereon to the prepayment date, without premium.

(a) Optional Prepayment. The Series C Certificates with a Certificate Payment Date on and after _____ are subject to prepayment in whole on any date or in part on any Interest Payment Date, on and after _____, but only upon the request of the City pursuant to the Agreement, at the prepayment prices (expressed as percentages of the principal amount of the Series C Certificates to be prepaid) set forth below, plus accrued interest, if any, to the prepayment date:

<u>Prepayment Date</u>	<u>Prepayment Price</u>
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Notice of prepayment of any Certificate selected for prepayment shall be mailed by the Trustee not less than thirty (30) days nor more than sixty (60) days before the prepayment date to the registered owner hereof, subject to and in accordance with provisions of the Trust Agreement. If notice of prepayment has been duly given as aforesaid and money for the payment of the prepayment price is held by the Trustee, then this Certificate shall, on the prepayment date designated in such notice, become due and payable, and from and after the date so designated interest evidenced by this Certificate shall cease to accrue, and the registered owner of this Certificate shall have no rights with respect hereto except to receive payment of the prepayment price hereof.

This Certificate is transferable on the books required to be kept for that purpose at the Corporate Trust Office of the Trustee by the Person in whose name it is registered, in person or by his duly authorized attorney, upon payment of the charges provided in the Trust Agreement, and upon surrender of this Certificate for cancellation accompanied by delivery of a duly executed written instrument of transfer in a form acceptable to the Trustee, and thereupon a new Series C Certificate or Series C Certificates evidencing a like aggregate principal amount in authorized denominations will be delivered to the transferee. This Certificate may be exchanged at the Corporate Trust Office of the Trustee, upon payment of the charges provided in the Trust Agreement, for Certificates evidencing a like aggregate principal amount of Series C Certificates of other authorized denominations. The Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of the interest and principal and prepayment premium, if any, evidenced hereby and for all other purposes, whether this Certificate shall be overdue or not, and the Trustee shall not be affected by any notice or knowledge to the contrary; and payment of the interest and principal and prepayment premium, if any, evidenced by this Certificate shall be made only to such registered owner, which payments shall be valid and effectual to satisfy and discharge liability on this Certificate to the extent of the sum or sums so paid.

The obligation of the City to make the Installment Payments is a special obligation of the City payable solely from the Net Revenues of the Electric System as provided in the Agreement. The general fund of the City is not liable for, and neither the faith and credit nor the taxing power of the City is pledged to, the payment of the Installment Payments under the Agreement. The City may incur other obligations payable on a parity with the Installment Payments in accordance with the Agreement.

The Trustee has no obligation or liability to the Certificate owners for the payment of the interest or principal or the prepayment premiums, if any, evidenced by the Certificates; but rather the Trustee's sole obligations are those stated in the Trust Agreement.

No member, officer or employee of the City or the Corporation shall be individually or personally liable for the payment of the interest or principal or prepayment premiums, if any, evidenced by the Certificates by reason of their delivery, but nothing herein contained shall relieve any such member, officer or employee from the performance of any official duty provided by applicable provisions of law or hereby.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto, but no such

amendment shall (1) extend the Certificate Payment Date of this Certificate, or change the payment dates of, or reduce the rate of interest or principal or prepayment premium, if any, evidenced hereby, without the express written consent of the registered owner hereof, or (2) reduce the percentage of Certificates required for the written consent to any amendment, or (3) modify any rights or obligations of the Trustee without its prior written assent thereto.

The Trust Agreement prescribes the manner in which it may be discharged and after which the Certificates shall no longer be secured by or entitled to the benefits of the Trust Agreement.

IN WITNESS WHEREOF, this Certificate has been executed by the manual signature of an authorized signatory of the Trustee as of the date below.

EXECUTION

DATE: _____

BNY WESTERN TRUST COMPANY,
as Trustee

By: _____
Authorized Signatory

STATEMENT OF INSURANCE

MBIA Insurance Corporation (the "Certificate Insurer") has issued a policy containing the following provisions, such policy being on file at the office of BNY Western Trust Company in Los Angeles, California.

The Certificate Insurer, in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the City to BNY Western Trust Company, as Trustee, or its successor (the "Trustee") of an amount equal to (i) the principal (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest evidenced by the Certificates (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional prepayment or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts." "Certificates" shall mean:

[\$ _____]
ELECTRIC SYSTEM REVENUE
CERTIFICATE OF PARTICIPATION,
2002 Series C
Evidencing a Proportionate Interest
of the Owner ~~Hereof~~Thereof in Certain Installment
Payments to be made by the City of Lodi, California

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Certificate Insurer from the Trustee or any owner of an Certificate the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with State Street Bank and Trust Company, N.A., in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Certificates or presentment of such other proof of ownership of the Certificates, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Certificates as are paid by the Insurer, and appropriate instruments to effect the appointment of the Certificate Insurer as an agent for such owners of the Certificates in any legal proceeding related to payment of Insured Amounts on the Certificates, such instruments being in a form satisfactory to State Street Bank and Trust Company, N.A., State Street Bank and Trust Company, N.A. shall disburse to such owners or the Trustee payment of the Insured

Amounts due on such Certificates, less any amount held by the Trustee for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Certificate.

As used herein, the term "owner" shall mean the registered owner of any Certificate as indicated in the registration books maintained by the Trustee, the City or any designee of the City for such purpose. The term owner shall not include the City or any party whose agreement with the City constitutes the underlying security for the Certificates.

Any service of process on the Certificate Insurer may be made to the Certificate Insurer at its officers located at 113 King Street, Armonk, New York 10504 and such service of process shall be valid and binding.

This policy is non-cancelable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Certificates.

In the event the Certificate Insurer were to become insolvent, any claims arising under a policy of financial guaranty insurance are excluded from coverage by the California Insurance Guaranty Association, established pursuant to Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1 of the California Insurance Code.

MBIA Insurance Corporation

[FORM OF ASSIGNMENT TO APPEAR ON **SERIES C** CERTIFICATES]

For value received the undersigned hereby sells, assigns and transfers unto _____
_____ (Taxpayer Identification Number: _____) the within Certificate and
all rights thereunder, and hereby irrevocably constitutes and appoints _____
attorney to transfer the within Certificate on the books kept for registration thereof, with full
power of substitution in the premises.

Dated: _____

Note: The signature to this Assignment must correspond with the name as written on the face of
the Certificate in every particular, without alteration or enlargement or any change
whatever.

Signature Guaranteed: _____

Notice: Signature must be guaranteed by an eligible guarantor institution.

EXHIBIT B

FORM OF SERIES D CERTIFICATE

**ELECTRIC SYSTEM REVENUE
CERTIFICATE OF PARTICIPATION,
2002 Taxable Series D**

**Evidencing a Proportionate Interest of the Owner Hereof
in Certain Installment Payments to be made by the
CITY OF LODI**

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Lodi or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-_____ \$ _____

Interest Rate	Certificate Payment Date	Dated Date	CUSIP
%	_____	_____	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \$ _____

THIS IS TO CERTIFY that the registered owner of this Certificate set forth above, is the owner of a proportionate interest in certain Series D Installment Payments (as that term is defined in the Trust Agreement hereinafter mentioned) under and pursuant to that certain Amended and Restated Electric Energy Purchase Agreement executed and entered into as of November 1, 2002, by and between the City of Lodi, a municipal corporation organized and existing under and by virtue of the Constitution and laws of the State of California (the "City") and the Lodi Public Improvement Corporation, a nonprofit, public benefit corporation duly organized and existing under and by virtue of the laws of the State of California (the "Corporation") (which Amended and Restated Electric Energy Purchase Agreement is referred to herein as the "Agreement"), all of which rights to receive such Installment Payments have been assigned by the Corporation to BNY Western Trust Company, a banking corporation duly organized and existing under and by virtue of the laws of the State of California, or any other association or corporation which may at any time be substituted in place of the original trustee as provided in the Trust Agreement hereinafter mentioned (the "Trustee"). Capitalized

terms used in this Certificate not otherwise defined herein shall have the meanings given such terms in the Trust Agreement hereinafter mentioned or in the Agreement.

The registered owner of this Certificate is entitled to receive, subject to the terms of the Agreement and any right of prepayment prior thereto hereinafter provided for, on the Certificate Payment Date set forth above, upon surrender of this Certificate on such Certificate Payment Date or on the date of prepayment prior thereto at the Corporate Trust Office of the Trustee, the principal amount set forth above, representing the registered owner's proportionate share of the Series D Installment Payments constituting principal installments becoming due and payable on such Certificate Payment Date or on the date of prepayment prior thereto, and to receive Interest Installments on such principal installment at the rate per annum specified above to such Certificate Payment Date or date of prepayment prior thereto. The registered owner of this Certificate as shown in the registration books maintained by the Trustee as of the close of business on the applicable Record Date) is entitled to receive such registered owner's proportionate share of the Interest Installments evidenced by this Certificate from the Interest Payment Date next preceding the date of execution hereof by the Trustee; unless such date of execution is after a Record Date and on or before the following Interest Payment Date, in which event from such Interest Payment Date; or unless such date of execution is on or before _____, in which event from the Dated Date specified above); provided that if at the time of execution of this Certificate, interest evidenced by the Certificates is then in default, interest shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Certificates. Interest evidenced by this Certificate due on or before the Certificate Payment Date or prior prepayment of this Certificate shall be payable in lawful money of the United States of America, by check mailed on such Interest Payment Date by first-class mail to the registered owner hereof; provided, that if the registered owner hereof shall be the owner of one million dollars (\$1,000,000) or more in aggregate principal amount of Certificates, upon the written request of the registered owner hereof received by the Trustee prior to the applicable Record Date (which such request shall remain in effect until rescinded in writing by such registered owner), interest shall be paid by wire transfer in immediately available funds.

Interest with respect to the Series D Certificates will be paid on each Interest Payment Date provided that if any Interest Payment Date is not a Business Day, such interest shall be mailed or wired as provided above on the next succeeding Business Day and no interest shall accrue from the date when due. Interest Payment Date means, with respect to the Series D Certificates, each January 1 and July 1, commencing _____. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The principal evidenced hereby is payable in lawful money of the United States of America at the Corporate Trust Office of the Trustee.

This Certificate is one of the duly authorized Series of certificates of participation designated "Electric System Revenue Certificates of Participation 2002 Taxable Series D" (the "Series D Certificates") aggregating _____ (\$_____) in principal amount, which have been executed by the Trustee under and pursuant to the provisions of a Trust Agreement, dated as of November 1, 2002 (the "Trust Agreement") between the Corporation and the Trustee. The Trust Agreement authorizes a second series of certificates of participation designated as "Electric System Revenue Certificates of Participation

2002 Series C” which evidence interests in the Series C Installment Payments to be made by the City under the Agreement. The Series C Certificates and the Series D Certificates are collectively referred to herein as the “Certificates.” Copies of the Trust Agreement are on file at the Corporate Trust Office of the Trustee and reference is hereby made to the Trust Agreement and to any and all amendments thereof and supplements thereto for a description of the agreements, conditions, covenants and terms of the Certificates, for the nature, extent and manner of enforcement of such agreements, conditions, covenants and terms, for the rights and remedies of the registered owners of the Certificates with respect thereto and for the other agreements, conditions, covenants and terms upon which the Certificates are executed and delivered thereunder.

In the Agreement, the City has certified that all acts, conditions and things required by the Constitution and statutes of the State of California, to have been performed, to have happened and to exist precedent to and in connection with the execution and delivery of the Agreement, have been performed, have happened and do exist in regular and due time, form and manner as required by law.

Mandatory Prepayment. The Series D Certificates with a Certificate Payment Date of _____ are subject to mandatory prepayment prior to their Certificate Payment Date, in part, on _____ and on each July 1 thereafter in a principal amount equal to the Principal Installments of the Series D Installment Payments due pursuant to the Agreement on such date at a prepayment price equal to the principal amount of the Series D Certificates to be prepaid plus accrued but unpaid interest thereon to the prepayment date, without premium.

(b) Optional Prepayment. The Series D Certificates with a Certificate Payment Date on and after _____ are subject to prepayment in whole on any date or in part on any Interest Payment Date, on and after _____, but only upon the request of the City pursuant to the Agreement, at the prepayment prices (expressed as percentages of the principal amount **of Series D Certificates to be prepaid**) set forth below, plus accrued interest, if any, to the prepayment date:

<u>Prepayment Date</u>	<u>Prepayment Price</u>
------------------------	-------------------------

This Certificate is transferable on the books required to be kept for that purpose at the Corporate Trust Office of the Trustee in whose name it is registered, in person or by his duly authorized attorney, upon payment of the charges provided in the Trust Agreement, and upon surrender of this Certificate for cancellation accompanied by delivery of a duly executed written instrument of transfer in a form acceptable to the Trustee, and thereupon a new Series D Certificate or Series D Certificates of the same Certificate Payment Date evidencing a like aggregate principal amount in authorized denominations will be delivered to the transferee. This Certificate may be exchanged at the Corporate Trust Office of the Trustee, upon payment of the charges provided in the Trust Agreement, for Series D Certificates evidencing a like aggregate principal amount of Series D Certificates of the same Certificate Payment Date of other authorized denominations. The Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of the interest and principal and prepayment premium, if any, evidenced hereby and for all other purposes, whether this Certificate shall be overdue or not, and the Trustee shall not be affected by any notice or knowledge to the contrary; and payment of the interest and principal and prepayment premium, if any, evidenced by this Certificate shall be made only to such registered owner, which payments shall be valid and effectual to satisfy and discharge liability on this Certificate to the extent of the sum or sums so paid.

The obligation of the City to make the Installment Payments is a special obligation of the City payable solely from the Net Revenues of the Electric System as provided in the Agreement. The general fund of the City is not liable for, and neither the faith and credit nor the taxing power of the City is pledged to, the payment of the Installment Payments under the Agreement. The City may incur other obligations payable on a parity with the Installment Payments in accordance with the Agreement.

The Trustee has no obligation or liability to the Certificate owners for the payment of the interest or principal or the prepayment premiums, if any, evidenced by the Certificates; but rather the Trustee's sole obligations are those stated in the Trust Agreement.

No member, officer or employee of the City or the Corporation shall be individually or personally liable for the payment of the interest or principal or prepayment premiums, if any, evidenced by the Certificates by reason of their delivery, but nothing herein contained shall relieve any such member, officer or employee from the performance of any official duty provided by applicable provisions of law or hereby.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto, but no such amendment shall (1) extend the Certificate Payment Date of this Certificate, or change the payment dates of, or reduce the rate of interest or principal or prepayment premium, if any, evidenced hereby, without the express written consent of the registered owner hereof, or (2) reduce the percentage of Certificates required for the written consent to any amendment, or (3) modify any rights or obligations of the Trustee without its prior written assent thereto.

The Trust Agreement prescribes the manner in which it may be discharged and after which the Certificates shall no longer be secured by or entitled to the benefits of the Trust Agreement.

IN WITNESS WHEREOF, this Certificate has been executed by the manual signature of an authorized signatory of the Trustee as of the date below.

EXECUTION

DATE: _____

BNY WESTERN TRUST COMPANY,
as Trustee

By: _____
Authorized Signatory

STATEMENT OF INSURANCE

MBIA Insurance Corporation (the "Certificate Insurer") has issued a policy containing the following provisions, such policy being on file at the office of BNY Western Trust Company in Los Angeles, California.

The Certificate Insurer, in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the City to BNY Western Trust Company, as Trustee, or its successor (the "Trustee") of an amount equal to (i) the principal (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest evidenced by the Certificates (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts." "Certificates" shall mean:

\$ _____
ELECTRIC SYSTEM REVENUE
CERTIFICATE OF PARTICIPATION,
2002 Taxable Series D

Evidencing a Proportionate Interest of the Owner ~~Hereof~~Thereof
in Certain Installment Payments to be made by the
City of Lodi, California

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Certificate Insurer from the Trustee or any owner of an Certificate the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with State Street Bank and Trust Company, N.A., in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Certificates or presentment of such other proof of ownership of the Certificates, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Certificates as are paid by the Insurer, and appropriate instruments to effect the appointment of the Certificate Insurer as an agent for such owners of the Certificates in any legal proceeding related to payment of Insured Amounts on the Certificates, such instruments being in a form satisfactory to State Street Bank and Trust Company, N.A., State Street Bank and Trust Company, N.A. shall disburse to such owners or the Trustee payment of the Insured

Amounts due on such Certificates, less any amount held by the Trustee for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Certificate.

As used herein, the term "owner" shall mean the registered owner of any Certificate as indicated in the books maintained by the Trustee, the City or any designee of the City for such purpose. The term owner shall not include the City or any party whose agreement with the City constitutes the underlying security for the Certificates.

Any service of process on the Certificate Insurer may be made to the Certificate Insurer at its officers located at 113 King Street, Armonk, New York 10504 and such service of process shall be valid and binding.

This policy is non-cancelable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Certificates.

In the event the Certificate Insurer were to become insolvent, any claims arising under a policy of financial guaranty insurance are excluded from coverage by the California Insurance Guaranty Association, established pursuant to Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1 of the California Insurance Code.

MBIA Insurance Corporation

[FORM OF ASSIGNMENT TO APPEAR ON SERIES D CERTIFICATES]

For value received the undersigned hereby sells, assigns and transfers unto _____
_____ (Taxpayer Identification Number: _____) the within Certificate and
all rights thereunder, and hereby irrevocably constitutes and appoints _____
attorney to transfer the within Certificate on the books kept for registration thereof, with full
power of substitution in the premises.

Dated: _____

Note: The signature to this Assignment must correspond with the name as written on the face of
the Certificate in every particular, without alteration or enlargement or any change
whatever.

Signature Guaranteed: _____

Notice: Signature must be guaranteed by an eligible guarantor institution.

[STATEMENT OF INSURANCE]

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RESOLUTION NO. LPIC 2002-02

A RESOLUTION OF THE LODI PUBLIC IMPROVEMENT CORPORATION
RELATING TO ELECTRIC SYSTEM REVENUE CERTIFICATES OF
PARTICIPATION; APPROVING THE FORMS OF AND AUTHORIZING THE
EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED ELECTRIC
ENERGY PURCHASE AGREEMENT AND A TRUST AGREEMENT IN
CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER
MATTERS RELATED THERETO

=====

WHEREAS, the City of Lodi, a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City"), has established the Electric System (capitalized terms used herein and not otherwise defined shall have the meanings given such terms pursuant to Section 1.01 of the Trust Agreement referred to below) to serve the inhabitants of the City; and

WHEREAS, pursuant to the Public Utilities Code of the State, the City is authorized to acquire, own, control, sell or exchange rights of every nature for the purpose of operating the Electric System; and

WHEREAS, in order to assure adequate electricity to satisfy the expected load requirements of the inhabitants of the City, the City entered into the Original Agreement with Calpine providing for the purchase by the City of the Energy for the term of the Original Agreement; and

WHEREAS, pursuant to the Original Agreement, the City was obligated to take and pay for the Energy as delivered, resulting in the City's obligation to make installment purchase payments to Calpine in the amounts and at the times determined pursuant to the Original Agreement; and

WHEREAS, the City and Calpine have entered into the Amendment (the Original Agreement as amended and supplemented by the Amendment being herein referred to as the "Amended Agreement") pursuant to which the Original Agreement has been amended and supplemented to provide for three Parts, with the Original Agreement constituting Part II; and

WHEREAS, the City has sold its interests in the Energy to Calpine, and Calpine purchased the City's interests in the Energy, on the terms and conditions set forth in the Part III of the Amended Agreement; and

WHEREAS, pursuant to Part III of the Amended Agreement, the City and Calpine agreed upon the purchase price for the City's interests in the Energy and also agreed to net the payments due from the City for its purchase of the Energy from Calpine pursuant to the Original Agreement against the payments due from Calpine for its purchase of the City's interests in the Energy pursuant to Part III of the Amended Agreement, resulting in an obligation of the City to make certain installment payments to Calpine (the "Original Installment Payments"); and

WHEREAS, the City and Calpine agreed in Part III of the Amended Agreement that the Original Installment Payments were to be paid from Net Revenues of the City's Electric System; and

WHEREAS, Part I of the Amended Agreement provided the Lodi Public Improvement Corporation, a nonprofit, public benefit corporation duly organized and existing under and by virtue of the laws of the State of California (the "Corporation") with the option to purchase all of Calpine's right, title and interest in and to Part III thereof, including the right to collect the Original Installment Payments; and

WHEREAS, the Corporation intends to exercise said option and acquire all of Calpine's right, title and interest in and to Part III to the Amended Agreement, including the right to collect the Original Installment Payments; and

WHEREAS, in order to facilitate the Corporation's financing of its acquisition of Calpine's right, title and interest in and to Part III of the Amended Agreement, to modify the Original Installment Payments as requested by the City, to conform the covenants and agreements of the City with respect to the Electric System and the Revenues with outstanding Parity Obligations of the City and to simplify the agreement between the City and the Corporation with respect to Part III of the Amended Agreement, the City and the Corporation have determined to amend and restate Part III of the Amended Agreement as provided in the Amended and Restated Electric Energy Purchase Agreement (the "Agreement"), dated as of November 1, 2002, between the City and the Corporation; and

WHEREAS, pursuant to the Agreement, the City will be obligated to make the Installment Payments to the Corporation from Net Revenues in the amounts, on the dates and on the terms and conditions set forth in the Agreement; and

WHEREAS, the Corporation desires to finance its acquisition of Calpine's rights in and to Parts I and III of the Amended Agreement with the proceeds of the sale of the Electric System Revenue Certificates of Participation, 2002 Series C (the "Series C Certificates") and Electric System Revenue Certificates of Participation, 2002 Taxable Series D (the "Series D Certificates" and collectively with the Series C Certificates, the "Certificates"), evidencing and representing proportionate interests of the owners thereof in the Installment Payments to be made by the City pursuant to the Agreement; and

WHEREAS, the Certificates are to be executed and delivered pursuant to a Trust Agreement (the "Trust Agreement"), proposed to be executed by the Corporation and BNY Western Trust Company (the "Trustee") pursuant to which the Corporation shall assign all of its rights in and to the Agreement to the Trustee; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner, and the Corporation is now duly authorized and empowered, to consummate such transactions, for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS THE LODI PUBLIC IMPROVEMENT CORPORATION, AS FOLLOWS:

Section 1. The Board of Directors of the Corporation hereby specifically finds and determines it is desirable and furthers the Corporation's public purpose to assist the City by acquiring Calpine's right, title and interest in Part III of the Amended Agreement and entering into the Agreement with the City through the actions authorized hereby and that the statements, findings and determinations set forth above and in the preambles of the documents approved herein are true and correct.

Section 2. The Agreement, proposed to be executed and entered into by and between the City and the Corporation, in the form presented at this meeting and on file with the Secretary of the Corporation, and the performance by the Corporation of its obligations under the Agreement as executed and delivered in accordance with this Resolution are hereby approved. The President and the Treasurer of the Corporation, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the Corporation, to execute and deliver to the City the Agreement in substantially said form, with such changes therein as such officer executing such document may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The Trust Agreement, in the form presented at this meeting and on file with the Secretary of the Corporation, and the performance of by the Corporation of its obligations under the Trust Agreement as executed and delivered in accordance with this Resolution are hereby approved. The President or the Treasurer of the Corporation, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the Corporation, to execute and deliver to the Trustee the Trust Agreement in substantially said form, with such changes therein as the such officer executing such document may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof, provided, that the aggregate principal amount of the Certificates to be executed and delivered thereunder shall not exceed \$45,000,000, the final principal payment date of the Certificates shall be not later than 35 years from their date of delivery, and the net interest cost of the Certificates shall not exceed eight percent per annum.

Section 4. The Secretary of the Corporation is hereby authorized and directed to attest the signatures of the President and the Treasurer of the Corporation, as may be required or appropriate, in connection with the execution and delivery of the Agreement and the Trust Agreement.

Section 5. The officers of the Corporation are hereby severally authorized and directed to do any and all things (including the negotiating and obtaining of a municipal bond insurance policy or reserve fund surety bond with respect to the Certificates if the City Manager or Finance Director of the City determine that such insurance policy or surety bond will result in savings to the City) and to execute and deliver any and all documents which they may deem necessary or desirable in order to consummate the transactions authorized hereby and to consummate the sale, execution and delivery of the Certificates and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Agreement, the Trust Agreement and the Certificates; and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 6. This Resolution shall take effect immediately upon its passage.

Dated: October 22, 2002

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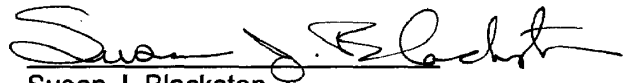
I hereby certify that the foregoing is a full, true and correct copy of Resolution No. LPIC 2002-02 duly passed and adopted by the Board of Directors of the Lodi Public Improvement Corporation at a meeting thereof duly held on the 22nd day of October, 2002, by the following vote of the Directors thereof:

AYES: DIRECTORS – Hitchcock, Howard, Land, Nakanishi, and President Pennino


NOES: DIRECTORS – None

ABSENT: DIRECTORS – None

ABSTAIN: DIRECTORS – None


Susan J. Blackston
Secretary for the Corporation

Approved As to Form:



Randall A. Hays
Attorney for the Corporation

LPIC 2002-02